

EXHIBIT 56

Excerpts of Deposition of Jon Okazaki conducted on June 29, 2016, Volume II

Deposition of:

Jon Okazaki, Esq.

Volume II, Pages 210 - 394

Case:

Bradley Roberts v. Clark County School District
2:15-CV-00388-JAD-PAL

Date:

06/29/2016



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| 9 | BY: KATHLEEN J. ENGLAND, ESQ. | 9 Williams to Alt Pro |
| 10 | 630 South Third Street | 10 Principals, and others, sent |
| 11 | Las Vegas, NV 89101 | 11 September 21, 2012, with |
| 12 | | 12 attachments, Bates labeled CCSD001910-1914 |
| 13 | For Defendants: | 13 65 Excerpt from Nevada 215 |
| 14 | LITTLER MENDELSON | 14 Legislative Review Communique, |
| 15 | BY: BRUCE C. YOUNG, ESQ. | 15 September 2011, page 14 |
| 16 | 3960 Howard Hughes Parkway | 16 66 Clark County School District 225 |
| 17 | Suite 300 | 17 Bates labeled CCSD000330 |
| 18 | Las Vegas, NV 89169 | 18 67 Clark County School District 225 |
| 19 | | 19 Bates labeled CCSD000331-336 |
| 20 | | 20 |
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| <p>1 (A discussion was held off the record between the court 2 reporter and counsel, wherein counsel present agreed to 3 waive the reporter requirements as set forth under NRCP 4 Rule 30(b)(4) or FRCP Rule 30(b)(5), as applicable.)</p> <p>5 JON OKAZAKI, ESQ., 6 having been first duly sworn to testify to the truth, 7 the whole truth and nothing but the truth, was examined 8 and testified as follows:</p> <p>9</p> <p>10 EXAMINATION (Continued)</p> <p>11 BY MS. ENGLAND:</p> <p>12 Q Good morning, Mr. Okazaki.</p> <p>13 A Good morning.</p> <p>14 Q I wanted to finish up with two questions that 15 related to Subject No. 5 which was the subject of your 16 deposition last time.</p> <p>17 A Okay.</p> <p>18 Q And during your deposition last time, you 19 mentioned that there were actually three cases which 20 you refer to as case law. You recognized the Doe case, 21 you recognized and acknowledged Mr. Roberts' case. But 22 you said there was a case that preceded the Jane Doe 23 case, which was the transgender student who never 24 enrolled in Green Valley High School that was the 25 subject of the decision, the 2008 summary judgment in</p> | <p>1 BY MS. ENGLAND: 2 Q I'll show you what's been marked as 3 Exhibit 65.</p> <p>4 In connection with number, 30(b)(6) 5 Subject No. 5, I had asked you what sort of activities 6 had you undertaken to familiarize yourself with the new 7 law that was going into effect on October 1st, 2011, 8 that added gender identity and expression to Nevada 9 Fair Employment Practices Act. Do you recall that I 10 asked you that line of questioning?</p> <p>11 A I do not.</p> <p>12 Q Did you have any responsibility in the School 13 District's office of legal counsel to review bills that 14 impacted labor and employment matters?</p> <p>15 A Only --</p> <p>16 MR. YOUNG: I'm just going to object to the 17 extent it exceeds the scope of the Topic No. 5. I note 18 on the record that to the extent it does exceed 19 Topic No. 5, the response of the witness does not 20 represent the answer of the School District on behalf 21 as a 30(b)(6) designated witness and does not bind the 22 School District.</p> <p>23 That will be a standing objection. When 24 Ms. England asks questions that are again outside the 25 scope of the topic, if I indicate "standing objection,"</p> |
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| <p>1 favor of the School District on her Title IX claim 2 against the School District. Do you recognize that? 3 That's the Jane Doe versus School District case.</p> <p>4 A Yes.</p> <p>5 Q And you mentioned that there was a case before 6 that that involved a transgender person. Do you recall 7 what that was? This was part of the case authority 8 that you were relying on.</p> <p>9 A Probably the Minnesota Supreme Court case.</p> <p>10 Q So that's the Goins case?</p> <p>11 A I'm actually not familiar with -- I can't 12 recall the actual caption of the case.</p> <p>13 Q But it was not a School District or a District 14 of Nevada or Ninth Circuit case?</p> <p>15 A Correct.</p> <p>16 Q And when you offered that up during those 17 discussions on November 22nd, 2011, that the School 18 District had case authority, did you indicate, or were 19 you referring to this Minnesota case?</p> <p>20 A One of them, yes.</p> <p>21 Q Did you tell the people, the laypeople who 22 were there that the Minnesota case was at that point 11 23 years old?</p> <p>24 A No.</p> <p>25 (Exhibit 65 marked)</p> | <p>1 that's the objection I'm referring to.</p> <p>2 THE WITNESS: I review bills that are assigned 3 to me specifically.</p> <p>4 BY MS. ENGLAND:</p> <p>5 Q Could you open the book and look at AB 211, 6 which is Exhibit 59?</p> <p>7 A Exhibit --</p> <p>8 Q 59.</p> <p>9 Was that one of the bills assigned to you to 10 review?</p> <p>11 A At the time, no.</p> <p>12 Q Have you ever reviewed AB 211, which is 13 Exhibit 59?</p> <p>14 A Yes.</p> <p>15 Q When was the first time you reviewed it?</p> <p>16 A I don't recall specifically. During the time 17 period when this was enacted, I was responsible for 18 assisting in the revision of all of our 19 anti-discrimination language and all of our forms, and 20 so --</p> <p>21 Q My question is: When did you first see --</p> <p>22 A So it was --</p> <p>23 Q -- AB 211?</p> <p>24 MR. YOUNG: And I'm going to -- Ms. England, 25 please wait until the witness is done responding before</p> |

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| <p>1 you cut him off and ask your next question. It would 2 be appropriate for you to allow the witness to make any 3 full response before you interrupt him and ask another 4 question.</p> <p>5 And I'm just going to make my standing 6 objection to this line of questioning.</p> <p>7 BY MS. ENGLAND:</p> <p>8 Q Mr. Okazaki, my question was not, what is your 9 generalized practice? My specific was -- you have 10 Exhibit 59 in front of you. It is AB 211. I'm asking 11 you when you first saw that.</p> <p>12 A Yes. And I was answering that question. So 13 my answer is --</p> <p>14 Q Do you have a specific recollection?</p> <p>15 MR. YOUNG: Again, Ms. England, please, he's 16 attempting to answer the question, and you are very 17 rudely interrupting him with a new question before he 18 is done responding.</p> <p>19 Were you done responding?</p> <p>20 THE WITNESS: No.</p> <p>21 BY MS. ENGLAND:</p> <p>22 Q I'll withdraw all those questions.</p> <p>23 Do you have a specific recollection of when 24 you first saw AB 211, which you have in front of you as 25 Exhibit 59?</p> | <p>1 he had a surgical alteration of his genitals, can you 2 unequivocally state that you had read AB 211, Exhibit 3 59?</p> <p>4 MR. YOUNG: I'll object to the extent it 5 mischaracterizes prior testimony. You can answer.</p> <p>6 THE WITNESS: I can -- since I don't have a 7 specific recollection of the actual date on which I 8 read AB 211, that would be my answer. I don't have a 9 specific recollection. I can testify that I was fully 10 aware of the bill and what it revised. And so I was 11 aware that gender identity had been recognized as a 12 protected status prior to November 22nd, 2011.</p> <p>13 BY MS. ENGLAND:</p> <p>14 Q Okay. Can you state under oath here today 15 that you were aware not only was it a bill, AB 211, but 16 that the law itself had gone into effect on October 17 1st, 2011?</p> <p>18 A Sure.</p> <p>19 MR. YOUNG: Standing objection.</p> <p>20 BY MS. ENGLAND:</p> <p>21 Q And that you knew that before you began -- 22 before you stepped into that meeting on November 22nd, 23 2011; right?</p> <p>24 MR. YOUNG: Standing objection.</p> <p>25 THE WITNESS: Yes.</p> |
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| <p>1 A No.</p> <p>2 Q Can you state under oath here today that you 3 reviewed AB 211 before November 1st, 2011?</p> <p>4 MR. YOUNG: Standing objection. You can 5 answer.</p> <p>6 THE WITNESS: I don't have a specific 7 recollection. So that would have to be my answer, that 8 I don't have a specific recollection of the exact date 9 in which I reviewed AB 211.</p> <p>10 BY MS. ENGLAND:</p> <p>11 Q And before -- on or before November 1st, 2011, 12 can you specifically state any activities you 13 specifically recall having undertaken to assist Clark 14 County School District in implementing the prohibitions 15 which are contained in AB 211 which went into effect on 16 October 1st, 2011?</p> <p>17 MR. YOUNG: Standing objection.</p> <p>18 THE WITNESS: I do not have a specific 19 recollection as to the date. So I can't -- I do not 20 have a specific recollection as to dates.</p> <p>21 BY MS. ENGLAND:</p> <p>22 Q When you walked into the meeting on November 23 22nd, 2011, and indicated to Clark County School 24 District Police Officer Brad Roberts that he would not 25 be allowed to use the men's room until he showed that</p> | <p>1 BY MS. ENGLAND:</p> <p>2 Q And you knew that before you -- or, did you 3 know that before you began advising the police 4 department officials earlier in November that they were 5 to instruct Brad Roberts that he was not permitted to 6 use the men's room even though he identified as male?</p> <p>7 MR. YOUNG: Standing objection.</p> <p>8 THE WITNESS: Yes.</p> <p>9 BY MS. ENGLAND:</p> <p>10 Q So now I'll ask you to look at Exhibit 65. 11 Do you get this bar journal, the Clark County 12 Bar Communiqué?</p> <p>13 A I believe I do.</p> <p>14 Q This is the September 2011 issue. So as a 15 member, you would have received a copy of this?</p> <p>16 A In all likelihood, yes.</p> <p>17 Q In this magazine sent in September of 2011 to 18 Clark County Bar Association members, there's a 19 legislative update by one of its members. And it 20 indicates that perhaps the biggest legislative change 21 in employment law was the passage of AB 211. Do you 22 see that, under the word "gender identity"?</p> <p>23 A I see what it says there, "Perhaps the biggest 24 legislative change was the passage of AB 211."</p> <p>25 Q So in September of 2011, can you recall any</p> |

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| <p>1 activities that you undertook, or the School District, 2 to help the School District prepare for what has been 3 characterized as the biggest legislative change in 4 employment law in the state of Nevada in September of 5 2011?</p> <p>6 A As I indicated, I did work on the 7 implementation of AB 211. I can't remember the exact 8 precise dates.</p> <p>9 Q Do you have any documentation in your office 10 in any way, shape, or form that would show that you -- 11 when and what activities you undertook to assist the 12 School District in implementing AB 211, the law that 13 went into effect on October 1st, 2011?</p> <p>14 MR. YOUNG: Standing objection.</p> <p>15 THE WITNESS: Yes.</p> <p>16 BY MS. ENGLAND:</p> <p>17 Q What would those -- what would that 18 documentation consist of?</p> <p>19 A It would likely consist of communications and 20 drafts relating to the revision to our 21 anti-discrimination warnings or blurbs that appear in 22 our various publications and possibly website.</p> <p>23 Q Who would those communications be with?</p> <p>24 MR. YOUNG: Standing objection.</p> <p>25 ////</p> | <p>1 MR. YOUNG: Standing objection.</p> <p>2 THE WITNESS: I don't have a specific date.</p> <p>3 It was in 2011, though, I believe.</p> <p>4 BY MS. ENGLAND:</p> <p>5 Q The law went into effect on October 1st, 2011. 6 How soon after that did the School District change its 7 job employment application to add gender identity and 8 expression to the protected statuses on its employment 9 application?</p> <p>10 A I don't have --</p> <p>11 MR. YOUNG: Standing objection.</p> <p>12 THE WITNESS: I don't have a specific 13 recollection of the date.</p> <p>14 BY MS. ENGLAND:</p> <p>15 Q And the School District ultimately changed its 16 policies and procedures on harassment and 17 discrimination, did it not, to reflect the new 18 statuses, protected statuses in the law?</p> <p>19 A Our policy and regulation, yes.</p> <p>20 Q And the School District did not do that until 21 April of 2012. So that is six months after the law 22 took effect. Do you recognize that?</p> <p>23 A I believe that's accurate, yes.</p> <p>24 Q And so you're saying -- so when did you first 25 become involved in making those changes?</p> |
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| <p>1 BY MS. ENGLAND:</p> <p>2 Q Human resources?</p> <p>3 A With whichever department was responsible for 4 the publication that we were revising.</p> <p>5 Q So insofar as the new prohibition under Nevada 6 law that went into effect on October 1st, 2011, which 7 department would be in charge of changing those rules 8 and regulations?</p> <p>9 MR. YOUNG: Standing objection.</p> <p>10 THE WITNESS: It's not rules and regulations. 11 What I'm talking about is -- for example, on our job 12 employment application, we have a blurb indicating that 13 we do not discriminate based upon protected statuses 14 and classes. And so we had to add -- we had to revise 15 that statement consistent with AB 211. So in that 16 case, I dealt with human resources for the employment 17 application. We also had --</p> <p>18 BY MS. ENGLAND:</p> <p>19 Q When was that changed?</p> <p>20 MR. YOUNG: Standing objection.</p> <p>21 THE WITNESS: I don't have a specific date. I 22 can't recall.</p> <p>23 BY MS. ENGLAND:</p> <p>24 Q How soon after the law went into effect on 25 October 1st, 2011?</p> | <p>1 MR. YOUNG: Standing objection.</p> <p>2 BY MS. ENGLAND:</p> <p>3 Q Or assisting the School District in making 4 those changes?</p> <p>5 A I do not know if I personally was involved in 6 revising the policy and regulation.</p> <p>7 MS. ENGLAND: So we'll show you what has been 8 marked for us as -- we need the new ones. 9 (Exhibits 66 and 67 marked)</p> <p>10 MS. ENGLAND: Here's 66, and here is 67. 11 Sorry, Bruce. This one is 66. Sorry. And this is 12 number 67. Sorry, I neglected to write the numbers.</p> <p>13 MR. YOUNG: I'm sorry. I was unaware that you 14 were going to go back and ask questions, because the 15 actual notice for this deposition talked about Topics 4 16 and 6, not Topic 5. I thought we were done. So 17 technically, I don't understand why you are going back 18 because the depo notice for today only identified 19 Topics 4 and 6, not 5. So I don't have a copy of the 20 notice that has Topic No. 5 on it, and I don't have it 21 memorized. So do you have a document that has 22 Topic No. 5 on it?</p> <p>23 MS. ENGLAND: I do. Do you have Exhibit No. 1 24 in your book?</p> <p>25 MR. YOUNG: No, I do not.</p> |

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| 1 | MS. ENGLAND: You may certainly look at mine. | 1 objection to this whole line of questioning that it is |
| 2 | There's 5. | 2 irrelevant and outside Topic No. 5. |
| 3 | Would you like for us to wait for you to | 3 BY MS. ENGLAND: |
| 4 | review it? Mr. Young, would you like us to make a copy | 4 Q And did you participate -- |
| 5 | of it? | 5 MR. YOUNG: And as such, I will consider this |
| 6 | MR. YOUNG: No. I'm good. Just give me a | 6 to be questions concerning him as a percipient witness |
| 7 | second. | 7 and not Topic No. 5. |
| 8 | MS. ENGLAND: Okay. All set? | 8 BY MS. ENGLAND: |
| 9 | MR. YOUNG: I would just state my objection | 9 Q If you look at Exhibit 67, it, too, bears the |
| 10 | for the record that you are going back contrary to the | 10 same revision date? |
| 11 | Notice of Deposition, continued deposition, that was | 11 A Correct. |
| 12 | served on the School District wherein you indicated | 12 Q So that means it was issued on April 12th, |
| 13 | that the deposition subjects for today would be | 13 2012? |
| 14 | 30(b)(6) Topics No. 4 and 6, and that Mr. Okazaki as a | 14 A No. That means it was revised on April 12th, |
| 15 | percipient witness deposition would be taken today. I | 15 2012. |
| 16 | would just object to the fact that you're going back | 16 MR. YOUNG: And also just for the record, I'm |
| 17 | and asking more questions on Topic No. 5. | 17 going to indicate that Mr. Okazaki does have an |
| 18 | BY MS. ENGLAND: | 18 appointment this afternoon, which was previously |
| 19 | Q Mr. Okazaki, why don't you let us know when | 19 indicated to you. So you're wasting your own time if |
| 20 | you're finished texting during your deposition? | 20 you're asking questions that are outside of the topic. |
| 21 | A I'm not texting. | 21 And we're not going to agree to any additional time for |
| 22 | Q Would you mind putting your phone away during | 22 Mr. Okazaki if you continue to ask questions that are |
| 23 | this deposition? | 23 outside the scope of the topics that are indicated. |
| 24 | A Okay. | 24 BY MS. ENGLAND: |
| 25 | Q Thank you. If there's some emergency issues | 25 Q So this means that's when this policy was |
| | Page 227 | Page 229 |
| 1 | that you need to attend to, I would simply ask that you | 1 issued -- |
| 2 | put your phone on some sort of vibrate to alert you. | 2 MR. YOUNG: Asked and answered. |
| 3 | And if you get an alert of a phone call, or something | 3 BY MS. ENGLAND: |
| 4 | that you have to attend to, I'll be happy to take a | 4 Q -- Exhibit 66, and the regulation, Exhibit 67? |
| 5 | break. | 5 A No. That notation indicates when this policy |
| 6 | A Okay. | 6 and regulation was revised. |
| 7 | Q So you have in front of you have Exhibits 66 | 7 Q So issued in this form? |
| 8 | and 67? | 8 A I'm going to disagree with the word "issued." |
| 9 | A Yes. | 9 It was not issued. It was always in existence, and it |
| 10 | Q Are these the policies and regulations that | 10 was revised on April 12th, 2012. |
| 11 | you just previously referred to? | 11 Q And the forms that you have in front of you, |
| 12 | A That you referred to? Yes. | 12 Exhibit 66 and 67, are the ones that are in effect as |
| 13 | Q And these are the ones that implemented and | 13 of April 12th, 2012? |
| 14 | when the School District finally added gender identity | 14 A Correct. |
| 15 | and expression to the types of protected class status | 15 Q And did you participate in the revisions and |
| 16 | for which discrimination is prohibited. Do you see | 16 the language that ended up in the revised policies, |
| 17 | that? | 17 Exhibit 66, and the revised regulation, Exhibit 67? |
| 18 | A I don't understand the question. | 18 MR. YOUNG: Standing objection to the extent |
| 19 | Q Sure. Can you read these policies? Look at | 19 that this is allegedly a question pertaining to |
| 20 | Exhibit 66. | 20 Topic No. 5. |
| 21 | A Okay. | 21 THE WITNESS: I do not recall. |
| 22 | Q And can you tell when it was issued in the | 22 BY MS. ENGLAND: |
| 23 | sense of when it was last revised? | 23 Q And if you had participated in the revisions |
| 24 | A Yes, April 12th, 2012. | 24 of the policy, Exhibit 66, and the regulation, 67, |
| 25 | MR. YOUNG: I'm just going to make a standing | 25 which came out six months after the new law went into |

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| 1 | effect, would you have -- would you have documentation | 1 BY MS. ENGLAND: |
| 2 | that you participated in? Would there be e-mails to | 2 Q Under the "Sexual Harassment" portion of it, |
| 3 | you? Would there be a charge to you asking you to take | 3 which appears on page 332 of the regulation, which is |
| 4 | a look at this, figure out what needs to be changed? | 4 R-4110, Exhibit 67, under "Sexual Harassment," did they |
| 5 | Would there be some memorialization of your | 5 ask you for your expertise and your experiences in |
| 6 | participation in the School District's adding the new | 6 dealing with what were sexually-based comments about |
| 7 | statuses under Nevada law that went into effect but not | 7 genitals and other inappropriate comments which have |
| 8 | doing so until April 12th, 2012? | 8 been made to Brad Roberts as a transgender male? |
| 9 | MR. YOUNG: Standing objection. Also | 9 MR. YOUNG: Standing objection. |
| 10 | argumentative. | 10 THE WITNESS: Not that I recall. |
| 11 | THE WITNESS: There would definitely be | 11 BY MS. ENGLAND: |
| 12 | documentation in regards to the revision of this policy | 12 Q And did they ask you to provide any examples |
| 13 | and regulation. Whether there is documentation | 13 that could be added to sexual harassment so that |
| 14 | evidencing my participation in it, I don't know. It's | 14 transgender people would be protected and examples of |
| 15 | possible if I was involved, it's possible I kept | 15 the type of conduct which should not be directed to |
| 16 | records or documentation relating to my participation. | 16 them -- the questions about their genitals, the |
| 17 | It's possible that even if I was involved, I did not | 17 questions ridiculing them about their genitals? Did |
| 18 | maintain any of those. | 18 anybody ask you for your experience so that it could be |
| 19 | BY MS. ENGLAND: | 19 added here and Clark County School District employees |
| 20 | Q So similarly, as you testified before, if | 20 could be warned that those are inappropriate comments? |
| 21 | indeed you had been asked by e-mail to look at this, | 21 MR. YOUNG: Standing objection. |
| 22 | you don't currently have e-mails from that era still on | 22 THE WITNESS: Not that I recall. |
| 23 | your computer to look at, and that would have to be | 23 BY MS. ENGLAND: |
| 24 | looked at by an IT person? | 24 Q And in the legal department, who is primarily |
| 25 | MR. YOUNG: Standing objection. | 25 responsible for assisting the people identified as |
| | Page 231 | Page 233 |
| 1 | THE WITNESS: I do not have any e-mails dating | 1 review responsibility for this policy and regulation, |
| 2 | back to 2012 -- | 2 which is human resources and executive manager |
| 3 | BY MS. ENGLAND: | 3 diversity and affirmative action programs? Who in the |
| 4 | Q Those have been -- | 4 legal department is the primary legal advisor to those |
| 5 | A -- on the computer. | 5 folks in the district -- |
| 6 | Q On your computer? | 6 MR. YOUNG: Standing objection. |
| 7 | A On my computer. | 7 BY MS. ENGLAND: |
| 8 | Q So you're unable to access e-mails from 2011 | 8 Q -- back -- sorry -- back in this time frame? |
| 9 | and 2012 on your computer at the present time -- | 9 A I don't think there was somebody who was |
| 10 | A Correct. | 10 primarily responsible. |
| 11 | MR. YOUNG: Standing objection. | 11 Q We're done with those. Thank you. |
| 12 | BY MS. ENGLAND: | 12 So now, in your previous deposition, I asked |
| 13 | Q -- five years later? | 13 you -- which was on Subject No. 5 -- I'd now like to |
| 14 | A Correct. | 14 change to Subject No. 4. Subject No. 4, I'll read it |
| 15 | Q But if you were asked to do so, you would | 15 into the record. It is the revised Subject No. 4, is, |
| 16 | defer to the expertise of the IT people who you | 16 as set forth in Exhibit No. 1, is: |
| 17 | identified before; is that right? | 17 "CCSD's actions in response to the NERC's May |
| 18 | A Correct. | 18 3, 2012, determination that CCSD's then-existing |
| 19 | Q So look at Exhibit 67. Do you recall, when | 19 restroom policy prohibiting Plaintiff's use of the |
| 20 | the Clark County School District was preparing this new | 20 men's restrooms at CCSD was illegal and discriminatory |
| 21 | district regulation R-4110, did they ask you for | 21 under Nevada law, and the timing and reasons for such |
| 22 | information about your experiences in dealing with the | 22 actions." |
| 23 | gender transition of Officer Roberts? | 23 Have I read that correctly? |
| 24 | MR. YOUNG: Standing objection. | 24 A Yes. |
| 25 | THE WITNESS: I do not recall. | 25 Q Now, in your previous deposition at the |

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| 1 | beginning of it, you provided us with a summary of the | 1 What I recall reviewing with Scott Greenberg is NERC's |
| 2 | information that you undertook in preparation to be the | 2 determination, our response letter, their response to |
| 3 | 30(b)(6) Designee on all three subjects. I'd now like | 3 our response letter, their notice of public hearing, |
| 4 | to turn simply to what you already testified to about | 4 our motion to dismiss, and those documents. |
| 5 | Subject No. 4, the preparation activities you | 5 Q Okay. That's fine. That's all I wanted to |
| 6 | undertook. Okay? | 6 know, if there was some sort of separate summary. |
| 7 | A Okay. | 7 A Not that I'm aware of. |
| 8 | Q You testified on page 19 of your June 10, | 8 Q Now we'll go to -- you may open that |
| 9 | 2016, deposition, that in the week before your | 9 Exhibit 28. |
| 10 | deposition was taken, that Scott Greenberg gave you a | 10 A I don't have 28. |
| 11 | summary of the District's response to the May 3rd NERC | 11 MR. YOUNG: I don't have 28 either. |
| 12 | determination finding probable cause that Clark County | 12 MS. ENGLAND: That's because we're about to |
| 13 | School District had committed illegal discrimination. | 13 introduce it. Sorry. |
| 14 | Do you recall that testimony? | 14 (Exhibit 28 marked) |
| 15 | A I do not specifically recall that testimony. | 15 BY MS. ENGLAND: |
| 16 | Q Do you have any quarrel with it? | 16 Q While we're having the rest of these marked, |
| 17 | A Could you repeat it? | 17 Mr. Okazaki, please feel free to go through the |
| 18 | Q Sure. Back then when you -- sorry. Let me | 18 exhibit. |
| 19 | start this again and see if I can ask a clearer | 19 I realize that Subject No. 3 -- excuse me -- |
| 20 | question. | 20 Subject No. 4 has to do with the Clark County School |
| 21 | MS. ENGLAND: Bruce, you don't have to answer | 21 District actions and response to the May 3rd, 2012, |
| 22 | that. That was your opening. | 22 NERC determination that CCSD was committing illegal |
| 23 | BY MS. ENGLAND: | 23 discrimination. The documents I'm now introducing, |
| 24 | Q On June 10th, you testified that part of your | 24 which will be number 28, 29, and 30 are all the |
| 25 | preparation activities included reviewing a summary | 25 pleadings and notices from the Nevada Equal Rights |
| | Page 235 | Page 237 |
| 1 | that Scott Greenberg gave you the week before, and that | 1 Commission in that same administrative proceeding where |
| 2 | summary was of the District's response to the May 3rd | 2 that determination was issued. I'm going to ask you to |
| 3 | NERC determination. Do you recall that testimony? | 3 review them, and then I'm going to ask you a few |
| 4 | A I do not. | 4 questions. |
| 5 | Q Do you, as you sit here today, recall that | 5 (Exhibits 29 and 30 marked) |
| 6 | somewhere in the week before your last deposition, | 6 BY MS. ENGLAND: |
| 7 | Greenberg gave you a summary of the District's response | 7 Q Mr. Okazaki, we have now handed you what the |
| 8 | to the May 3rd NERC determination? | 8 court reporter has marked Exhibit 28, you've had an |
| 9 | MR. YOUNG: I'm just going to object to the | 9 opportunity to look at that. We've handed you |
| 10 | extent it mischaracterizes the testimony that we don't | 10 Exhibit 29, which you have in front of you. I'll ask |
| 11 | have in front of us to know exactly what it is. | 11 you to take a look at that. And we've also handed you |
| 12 | MS. ENGLAND: Okay. We can get it out. | 12 Exhibit 30, and we'll ask you to take a look at that. |
| 13 | BY MS. ENGLAND: | 13 And may I please ask that you take off -- |
| 14 | Q Do you recall Greenberg giving you a summary | 14 we're going to have a number of documents out in front |
| 15 | of what the District -- | 15 of you. And I think it would be easier if -- may I ask |
| 16 | A No -- well, verbally, I recall him -- I recall | 16 you to remove that notice, and give it back to Bruce? |
| 17 | reviewing the District's response to the NERC's | 17 Thanks. |
| 18 | determination. | 18 Exhibit No. 31 is in your book. And that |
| 19 | Q When you say "I recall reviewing," are you | 19 comes next -- not 21, 31. You can take that out of the |
| 20 | talking about like the -- sort of the request for | 20 book. And we do need a stapler. |
| 21 | reconsideration, and the -- the pleadings that they -- | 21 We'll take a moment. We're going to ask the |
| 22 | the informal pleadings they filed in the Nevada Equal | 22 court reporter to go get us a stapler so these -- may I |
| 23 | Rights Commission as opposed to a separate stand-alone | 23 ask that you keep it in the same order right now until |
| 24 | summary that isn't anywhere? | 24 she staples it? |
| 25 | A Correct. I'm not aware of a separate summary. | 25 Madam Court Reporter, we'll take a short |

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|----|---|---|
| 1 | break. | 1 of discrimination. So you've educated yourself on what |
| 2 | (Recess taken from 10:06 to 10:08) | 2 the School District's response was so that you are |
| 3 | BY MS. ENGLAND: | 3 prepared to testify here today? |
| 4 | Q Mr. Okazaki, I believe you testified in the | 4 A Yes. |
| 5 | previous session of your deposition on Subject No. 5 | 5 Q And that included looking at the School |
| 6 | that as of -- | 6 District's responses and the paperwork that they filed |
| 7 | MR. YOUNG: Subject 5? Are we going back to | 7 in the NERC? Is that a fair statement? |
| 8 | 5? | 8 A Yes. |
| 9 | MS. ENGLAND: No, I'm just harkening back to | 9 Q That was the summary that you were referring |
| 10 | testimony that he gave. | 10 to that Mr. Greenberg offered up to you? |
| 11 | BY MS. ENGLAND: | 11 A Yes. If I used the word "summary," it was |
| 12 | Q -- that your personal involvement with the | 12 probably in regard to Scott Greenberg's verbal summary |
| 13 | issues related to Brad Roberts' gender transition and | 13 of the chronology of our response to the NERC's |
| 14 | the actions of the School District, that your personal | 14 determination. |
| 15 | involvement ended at the end of November after your | 15 Q So what was Scott Greenberg's verbal summary |
| 16 | attendance at the meeting on November 22nd, 2011, and | 16 of the chronology of the response? What did he tell |
| 17 | your participation in the development of the | 17 you? |
| 18 | announcement which went out on November 30th. Is that | 18 A After we received the determination of |
| 19 | a fair statement? | 19 probable cause, we responded -- they responded by |
| 20 | A I don't recall that exact testimony. But | 20 saying thank you, but we respectfully disagree; and |
| 21 | that's -- | 21 we're going to move the case forward; and then we |
| 22 | Q Is it correct? | 22 agreed to participate in conciliation; and that took |
| 23 | A Yes, I believe that is correct. | 23 place, but it was unsuccessful; and then after that, |
| 24 | Q I'll ask you this during your percipient | 24 the NERC indicated that they were going to hold a |
| 25 | deposition, but you participated in the development of | 25 public hearing to determine if this matter should be |
| | Page 239 | Page 241 |
| 1 | the language and the approval of the language which | 1 set for a public hearing; we filed a motion to dismiss |
| 2 | ultimately ended up in the November 30th, 2011, | 2 in response to that, that action; then there was |
| 3 | announcement memo? | 3 correspondence with the Attorney General's Office in |
| 4 | A Yes. | 4 regard to our concerns about the procedures; and that |
| 5 | Q And after that, did you, as in-house legal | 5 thereafter, the District decided to change its position |
| 6 | counsel, participate in any other issues related to | 6 with regard to Officer Roberts' use of restrooms at |
| 7 | Brad Roberts' gender transition, records changes, NERC, | 7 District facilities; officer Roberts was advised of |
| 8 | or EEOC proceedings? | 8 that change in position; and then there was |
| 9 | A I believe I provided a response to | 9 correspondence with the Attorney General in NERC; and |
| 10 | Mr. Rodriguez regarding Officer Roberts' NERC | 10 the matter was closed. |
| 11 | Complaint. | 11 MR. YOUNG: We're done. That's 4 and 6 in a |
| 12 | Q That was in connection with your memorializing | 12 nutshell. |
| 13 | and writing a memo about the activities that you had | 13 MS. ENGLAND: Nice try, Bruce. |
| 14 | engaged in in October and November of 2011? Is that a | 14 MR. YOUNG: Thanks, Kathy. |
| 15 | fair statement? | 15 BY MS. ENGLAND: |
| 16 | A Correct. | 16 Q So let's go back to Exhibit No. 28. In |
| 17 | Q But what I want to know is: As legal counsel, | 17 connection with your being prepared here today, in |
| 18 | after November 30th, 2011, your involvement in issues | 18 addition to the verbal summary that Scott Greenberg |
| 19 | related to Brad Roberts, other than memorializing what | 19 gave you, did you review these documents, which is the |
| 20 | you had done before, ended? | 20 January 19, 2012, notice from the Nevada Equal Rights |
| 21 | A As far as I can recall, yes. | 21 Commission to Tom Rodriguez, the affirmative action |
| 22 | Q So when did you first -- but here today, you | 22 officer of the Clark County School District? |
| 23 | are being offered up as Clark County School District's | 23 A Yes. |
| 24 | Designee on the Subject No. 4 which has to do with the | 24 Q Who provided you these, the documents that you |
| 25 | School District's response to a probable cause finding | 25 reviewed, which are contained within Exhibit 28? |

| | Page 242 | Page 244 |
|----|---|--|
| 1 | A I believe legal counsel. | 1 Discrimination, did you get that? |
| 2 | Q When you say "legal counsel," are you talking | 2 MR. YOUNG: Standing objection. |
| 3 | about Mr. Greenberg? | 3 THE WITNESS: During that time period back |
| 4 | A No, Mr. Young. | 4 when we are talking about? |
| 5 | Q Okay. These were documents, as you've said, I | 5 BY MS. ENGLAND: |
| 6 | think you testified that all of the documents that you | 6 Q Back then. |
| 7 | looked at in preparation for your 30(b)(6) depositions | 7 A I have no specific recollection of what |
| 8 | all had Bates stamps on them? | 8 documents I received at that time. |
| 9 | A As I recall, yes. | 9 Q Okay. Now looking at it, could you please |
| 10 | Q But you did testify that you looked at some | 10 look at the first page? It's CCSD001082. Is that the |
| 11 | other policies and regulations that were actually on | 11 Bates stamp number -- |
| 12 | the School District website that you would not | 12 A Yes. |
| 13 | necessarily produce with Bates numbers on them? | 13 Q -- on the first page of Exhibit 28? Now |
| 14 | A Correct. | 14 having looked at this, is your memory refreshed as to |
| 15 | Q So when was the first time you saw the Charge | 15 whether or not you actually got a copy of this page, |
| 16 | of Discrimination, which is contained in Exhibit 28, | 16 which is the notice? |
| 17 | which is signed by Officer Roberts on January 11th, | 17 A No. |
| 18 | 2012? | 18 Q Okay. And then the second page of Exhibit 28, |
| 19 | MR. YOUNG: Standing objection. | 19 which is Election of Response Form to the Clark County |
| 20 | THE WITNESS: I would assume shortly before my | 20 School District, it's a two-page document in |
| 21 | response to Mr. Rodriguez, which I believe is dated | 21 Exhibit 28. Do you see that? |
| 22 | February 3rd. So I believe it would be between our | 22 A I do. |
| 23 | receipt of this on or about January 19th, and, you | 23 Q Do you recall getting that -- |
| 24 | know, between then and February 3rd. | 24 MR. YOUNG: Standing objection. |
| 25 | ///// | 25 \\\ |
| | Page 243 | Page 245 |
| 1 | BY MS. ENGLAND: | 1 BY MS. ENGLAND: |
| 2 | Q So Mr. Rodriguez received the notice and the | 2 Q -- back then? |
| 3 | Charge of Discrimination, and at some point in time | 3 A I do not have a specific recollection of what |
| 4 | thereafter -- or, do you know when he got it? | 4 I received back then. |
| 5 | MR. YOUNG: Standing objection. Also calls | 5 Q Does this, looking at this document, refresh |
| 6 | for speculation. | 6 your memory in any way as to whether or not you got |
| 7 | THE WITNESS: No, other than the date that | 7 this Election of Response Form back then in the late |
| 8 | it's dated, no, I do not have specific details or | 8 January 2012, early February 2012, time frame? |
| 9 | recollection of exactly when he received it. | 9 MR. YOUNG: Standing objection. |
| 10 | BY MS. ENGLAND: | 10 THE WITNESS: No. |
| 11 | Q But some time between then and the date that | 11 BY MS. ENGLAND: |
| 12 | you wrote your memo which you provided to him, he sent | 12 Q Did you participate in the Clark County School |
| 13 | you a copy of the charge of discrimination? | 13 District's decision to refuse to participate in the |
| 14 | A Either he sent it to me, or I got it through | 14 informal settlement conference which is the first event |
| 15 | the Clark County School District Police Department. | 15 that the Nevada Equal Rights Commission holds? |
| 16 | Q And when you got the Charge of Discrimination, | 16 MR. YOUNG: Standing objection. |
| 17 | did you get any of the other paperwork that's contained | 17 THE WITNESS: Not that I recall. |
| 18 | in Exhibit 28? | 18 BY MS. ENGLAND: |
| 19 | MR. YOUNG: Standing objection. | 19 Q So now turn to the fourth page, I think, of |
| 20 | THE WITNESS: I can't recall exactly which | 20 Exhibit 28. This is the Charge of Discrimination. |
| 21 | documents were enclosed. | 21 It's two pages long. Do you recall -- you've already |
| 22 | BY MS. ENGLAND: | 22 said you got that some time before providing your |
| 23 | Q Okay. Well, then let's go through it. | 23 response on February 3rd to Mr. Rodriguez? Is that a |
| 24 | A Okay. | 24 fair statement? |
| 25 | Q The January 19th Notice of Charge of | 25 A Yes. |

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|---|---|--|
| 1 | <p>Q And attached to the Charge of Discrimination</p> <p>2 is a Remedy Request and Settlement Demand. Do you see</p> <p>3 that?</p> <p>4 A I do.</p> <p>5 Q Did you get a copy of that?</p> <p>6 MR. YOUNG: Standing objection.</p> <p>7 THE WITNESS: I do not recall.</p> <p>8 BY MS. ENGLAND:</p> <p>9 Q In this, Officer Roberts indicates that one of</p> <p>10 the remedies he is seeking, amongst others, is, "Full</p> <p>11 acknowledgment of my gender change and use of all male</p> <p>12 facilities without discriminatory and restrictive</p> <p>13 guidelines." Do you see that?</p> <p>14 A I do.</p> <p>15 Q Do you recall being made aware back in that</p> <p>16 time frame of Officer Roberts asking in January of 2012</p> <p>17 that the School District fully accept his gender</p> <p>18 transition to male?</p> <p>19 MR. YOUNG: Standing objection.</p> <p>20 THE WITNESS: The district was always aware</p> <p>21 from the very first time that have Officer Roberts</p> <p>22 notified us of his gender identity, change in gender</p> <p>23 identity, that he desired full acknowledgment of his</p> <p>24 gender identity change.</p> <p>25 /////</p> | <p>1 THE WITNESS: The answer would be that the</p> <p>2 decision was a joint decision of all the parties</p> <p>3 involved which would include --</p> <p>4 BY MS. ENGLAND:</p> <p>5 Q Well, it didn't include Brad Roberts, did it?</p> <p>6 A If I can finish --</p> <p>7 MR. YOUNG: Objection. Argumentative.</p> <p>8 THE WITNESS: All the CCSD parties involved,</p> <p>9 which was --</p> <p>10 BY MS. ENGLAND:</p> <p>11 Q Who?</p> <p>12 A -- Tom Rodriguez, the legal office, the</p> <p>13 superintendent --</p> <p>14 Q Who at legal office, if not you?</p> <p>15 MR. YOUNG: The witness is trying to answer,</p> <p>16 Kathy. Can you please just restrain yourself from</p> <p>17 having to interrupt before he's done answering?</p> <p>18 BY MS. ENGLAND:</p> <p>19 Q Mr. Okazaki, you know that I'm asking you --</p> <p>20 MR. YOUNG: Why don't you go ahead and answer,</p> <p>21 to the extent you can remember, what you were trying to</p> <p>22 answer the question about, and hopefully Ms. England</p> <p>23 will be able to restrain herself and not speak over</p> <p>24 you?</p> <p>25 /////</p> |
| 1 | Page 247 | Page 249 |
| 1 | <p>1 BY MS. ENGLAND:</p> <p>2 Q So who, as the 30(b)(6) Designee on</p> <p>3 Subject No. 4, who at the School District was in charge</p> <p>4 of reviewing Officer Roberts' remedy request where he's</p> <p>5 asking for full acknowledgment of his gender and his</p> <p>6 ability to use male facilities, but decided in January</p> <p>7 of 2012 that he was still to be denied that?</p> <p>8 MR. YOUNG: Standing objection.</p> <p>9 THE WITNESS: The individual responsible for</p> <p>10 receiving these documents and responding would be Tom</p> <p>11 Rodriguez.</p> <p>12 BY MS. ENGLAND:</p> <p>13 Q Who made the decision?</p> <p>14 A The decision would be a District decision.</p> <p>15 Q Who made the decision about what the</p> <p>16 District's response was going to be to this remedy</p> <p>17 request, dated January 11th, 2012, provided to the</p> <p>18 School District by a letter on January 19th, 2012?</p> <p>19 MR. YOUNG: Standing objection. It's outside</p> <p>20 the scope, Kathy. You're talking -- Topics 4 says</p> <p>21 actions in response to the May 3rd, 2012,</p> <p>22 determination, not anything in response to a remedy</p> <p>23 request in his charge of discrimination. So it's</p> <p>24 totally outside the topic. And I will make my standing</p> <p>25 objection. You can answer if you know anything.</p> | <p>1 BY MS. ENGLAND:</p> <p>2 Q Mr. Okazaki, I'm not asking you for offices.</p> <p>3 I'm not asking you for departments. I'm asking you</p> <p>4 who. And "who" means name the individuals. You are</p> <p>5 here today as the School District's 30(b)(6) Designee</p> <p>6 on the subject of --</p> <p>7 MR. YOUNG: Not the subject that you're asking</p> <p>8 questions about, Kathy. That's the problem. So why</p> <p>9 don't you ask some questions that are actually about</p> <p>10 the subject that you identified and that you wrote,</p> <p>11 because you're asking questions that have nothing to do</p> <p>12 with that.</p> <p>13 BY MS. ENGLAND:</p> <p>14 Q Mr. Okazaki, the question was who, not which</p> <p>15 department, not which office, not which agency. It is</p> <p>16 who at the School District made the decision what the</p> <p>17 District's response in the administrative procedure was</p> <p>18 going to be to Brad Roberts' remedy request asking for</p> <p>19 full acknowledgment of his gender change and use of all</p> <p>20 male facilities without discriminatory and restrictive</p> <p>21 guidelines? You've identified one human being so far,</p> <p>22 Mr. Tom Rodriguez. Who else, if anyone, participated</p> <p>23 in the School District's decision in response to that</p> <p>24 remedy request in these administrative proceedings?</p> <p>25 MR. YOUNG: Standing objection.</p> |

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| 1 | THE WITNESS: Scott Greenberg and Dwight | 1 Superintendent Jones' involvement besides his e-mail |
| 2 | Jones. | 2 indicating his approval of the position that had |
| 3 | BY MS. ENGLAND: | 3 already been taken? |
| 4 | Q And in preparation for your being the School | 4 MR. YOUNG: Standing objection. |
| 5 | District's 30(b)(6) Designee on these subjects, did you | 5 THE WITNESS: No. |
| 6 | speak with Superintendent Dwight Jones about his | 6 BY MS. ENGLAND: |
| 7 | participation in any of these three subjects? | 7 Q We're done with number 28. You can go on to |
| 8 | MR. YOUNG: Standing objection. | 8 29. |
| 9 | THE WITNESS: No. | 9 Did you have a moment review Exhibit 29? It's |
| 10 | BY MS. ENGLAND: | 10 a two-page document dated January 26th, 2012, which is |
| 11 | Q And did you review any documentation which | 11 addressed by the Nevada Equal Rights Commission to Tom |
| 12 | showed that, during this time frame, Superintendent | 12 Rodriguez, Affirmative Action Manager of the Clark |
| 13 | Jones did anything other than tell legal counsel that | 13 County School District? |
| 14 | he supported their position -- | 14 A I did. |
| 15 | MR. YOUNG: Standing objection. | 15 Q This confirms that the commission has received |
| 16 | BY MS. ENGLAND: | 16 an indication from the School District that the School |
| 17 | Q -- that Officer Roberts was to be told he was | 17 District is declining and waiving its participation in |
| 18 | not allowed to use the men's restroom until he had a | 18 the informal settlement conference which had already |
| 19 | surgical change to his genitals? | 19 been set up by the Nevada Equal Rights Commission. |
| 20 | MR. YOUNG: Standing objection. | 20 MR. YOUNG: Standing objection. |
| 21 | THE WITNESS: No. | 21 BY MS. ENGLAND: |
| 22 | BY MS. ENGLAND: | 22 Q Do you see that? |
| 23 | Q Did Mr. Greenberg provide you with any | 23 A I do. |
| 24 | additional facts that indicated that in any way, shape, | 24 Q Do you know on how many other occasions the |
| 25 | or form Superintendent Jones was involved in this | 25 School District has declined to participate in the |
| | Page 251 | Page 253 |
| 1 | decision? | 1 informal settlement conference, the first event -- |
| 2 | MR. YOUNG: Standing objection. | 2 MR. YOUNG: Standing objection. |
| 3 | THE WITNESS: No. | 3 BY MS. ENGLAND: |
| 4 | BY MS. ENGLAND: | 4 Q -- which is scheduled by the Nevada Equal |
| 5 | Q Did anyone provide you with any information | 5 Rights Commission in a discrimination case? |
| 6 | that showed that Superintendent Dwight Jones was in any | 6 MR. YOUNG: Standing objection. |
| 7 | way, shape, or form involved in the actual decision as | 7 THE WITNESS: No, I do not have exact numbers |
| 8 | opposed to approving it after it had already been | 8 on how many times that that's happened. |
| 9 | communicated to Officer Roberts? | 9 BY MS. ENGLAND: |
| 10 | MR. YOUNG: Standing objection. It's also | 10 Q Is it a frequent occurrence? |
| 11 | vague as to what decision you're talking about. | 11 A I don't have any information. |
| 12 | THE WITNESS: My answer -- my reference to | 12 Q Do you go to the Nevada Equal Rights |
| 13 | Superintendent Dwight Jones was in response to your | 13 Commission ISMs? Or is someone else in the legal |
| 14 | question about who made the decision of the District's | 14 department primarily responsible for those, or not at |
| 15 | response to Brad Roberts' NERC complaint and his | 15 all? Is it -- |
| 16 | recommended -- or his requested remedy. And my answer | 16 A I'm not aware of the attorneys being primarily |
| 17 | was Tom Rodriguez, Scott Greenberg, and Dwight Jones. | 17 responsible for attending those. |
| 18 | BY MS. ENGLAND: | 18 Q Fair enough. So whose decision was it to not |
| 19 | Q So now I'm asking you: What evidence of any | 19 participate? |
| 20 | kind did you find that Superintendent Dwight Jones was | 20 MR. YOUNG: Standing objection. |
| 21 | in any way involved in this decision? | 21 THE WITNESS: It would be Tom Rodriguez. And, |
| 22 | A The e-mail in which he was advised of the | 22 again, I'm not -- I didn't prepare for this particular |
| 23 | position that was being -- that was given to -- the | 23 question. |
| 24 | District's position and his agreement with it. | 24 BY MS. ENGLAND: |
| 25 | Q Did you find any other evidence of | 25 Q Okay. |

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| 1 | A But I'm assuming -- it's definitely Tom | 1 MR. YOUNG: Standing objection. |
| 2 | Rodriguez in all likelihood with the -- in consultation | 2 THE WITNESS: Correct. |
| 3 | with the legal office, Scott Greenberg. | 3 BY MS. ENGLAND: |
| 4 | Q And do you recall if it was actually | 4 Q This says that you assisted the executive |
| 5 | Mr. Rodriguez who made that decision, or if it was | 5 staff of the police department in addressing Officer |
| 6 | Scott Greenberg who told Mr. Rodriguez that that's what | 6 Roberts' request to use the male restroom. Officer |
| 7 | we're going to do? | 7 Roberts' request was far broader than that, was it not? |
| 8 | MR. YOUNG: Standing objection. | 8 MR. YOUNG: Standing objection. |
| 9 | THE WITNESS: I don't have that specific | 9 THE WITNESS: Yes. |
| 10 | information. I know that Mr. Rodriguez typically | 10 BY MS. ENGLAND: |
| 11 | handles these complaints received and the processes. | 11 Q And in your e-mail -- excuse me -- in your |
| 12 | So I would assume that he would be the one who was | 12 February 3rd, 2012, memo, you did not document the |
| 13 | primarily responsible for that decision. | 13 dates upon which you took each of these actions, did |
| 14 | BY MS. ENGLAND: | 14 you? |
| 15 | Q When you say "he," who are you talking about? | 15 MR. YOUNG: Standing objection. |
| 16 | A Tom Rodriguez. | 16 THE WITNESS: No, there's no dates in this |
| 17 | Q Thank you. | 17 memo. |
| 18 | And now would you go on to Exhibit No. 30? | 18 BY MS. ENGLAND: |
| 19 | During that small break that we had, did you have a | 19 Q And why is that, Mr. Okazaki? |
| 20 | chance to take a look at this? | 20 MR. YOUNG: Standing objection. |
| 21 | A I did. | 21 THE WITNESS: Probably because I didn't |
| 22 | Q Exhibit No. 30 has your February 3rd, 2012, | 22 consider it to be relevant. |
| 23 | memorandum of which you spoke a few minutes ago; is | 23 BY MS. ENGLAND: |
| 24 | that correct? | 24 Q It says in your first paragraph that, as far |
| 25 | A Correct. | 25 as you knew at the time you were writing this memo, |
| | Page 255 | Page 257 |
| 1 | Q Is there a signed version of your memorandum? | 1 "Everything that was done or said by Chief Ketsaa, |
| 2 | A I do not know that there is. | 2 Captain York, and/or Lieutenant Young in regard to this |
| 3 | Q Is that your normal practice, to sign | 3 issue was reviewed and approved by legal." Do you see |
| 4 | memorandum, or do they just go out like this with no | 4 that? |
| 5 | signature? | 5 A I do. |
| 6 | A I would think that my normal course would be | 6 Q When you said "by legal," were you referring |
| 7 | to initial my name there. I'm not -- I can't tell you | 7 to yourself, or to Mr. Greenberg, or to both of you? |
| 8 | that it's never gone out without it. This could have | 8 MR. YOUNG: Standing objection. |
| 9 | been even e-mailed to him. So I'm not sure. | 9 THE WITNESS: Myself. |
| 10 | Q If it's e-mailed to him, it would not have | 10 BY MS. ENGLAND: |
| 11 | been a scan with your initials on it? It would have | 11 Q So why didn't you say that instead of just |
| 12 | been just the -- | 12 saying "by legal"? |
| 13 | A I'm sure it's happened both ways. | 13 MR. YOUNG: Standing objection. |
| 14 | Q When did you prepare this February 3rd, | 14 THE WITNESS: Because my action is -- the |
| 15 | 2012 -- | 15 action of the Office of General Counsel is the action |
| 16 | A I'm sure either -- | 16 of legal. |
| 17 | MR. YOUNG: Standing objection. You can | 17 BY MS. ENGLAND: |
| 18 | answer. | 18 Q Did you write this memorandum in the |
| 19 | THE WITNESS: -- on or before, shortly before | 19 administrative proceedings, or for the administrative |
| 20 | February 3rd. | 20 proceedings for the express purpose of allowing it to |
| 21 | BY MS. ENGLAND: | 21 be submitted to the Nevada Equal Rights Commission as |
| 22 | Q This was as a result of your having been | 22 part of the documentation of what the School District |
| 23 | provided with a copy of the Charge of Discrimination | 23 did in the activities which are the subject matter of |
| 24 | which was that -- Officer Roberts' Charge of | 24 the charge? |
| 25 | Discrimination, which is contained in Exhibit 28? | 25 MR. YOUNG: Standing objection. |

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| 1 | THE WITNESS: No. This was written to provide | 1 that. |
| 2 | Tom Rodriguez with the District's actions and position | 2 BY MS. ENGLAND: |
| 3 | relative, or relative to the complaint filed by Officer | 3 Q And then you go on to say, "Instead, we |
| 4 | Roberts. | 4 promised to always make available to him, and therefore |
| 5 | BY MS. ENGLAND: | 5 require him to use a gender-neutral or single-occupant |
| 6 | Q Well, did you do it with the express purpose | 6 restroom until such time that he became biologically |
| 7 | that Mr. Rodriguez was then permitted, as part of the | 7 male." Do you see that? |
| 8 | School District's filings, to provide it to the Nevada | 8 A I do. |
| 9 | Equal Rights Commission? | 9 Q Officer Roberts was not under this prohibition |
| 10 | MR. YOUNG: Standing objection. | 10 permitted to use a single-occupant male restroom, was |
| 11 | THE WITNESS: No, I don't know -- I don't | 11 he? |
| 12 | recall that that was the express intent or that there | 12 MR. YOUNG: Standing objection. |
| 13 | was an express understanding that he was going to do | 13 THE WITNESS: No, he was allowed to use |
| 14 | that. | 14 single-occupant restrooms. |
| 15 | BY MS. ENGLAND: | 15 BY MS. ENGLAND: |
| 16 | Q Did you know he was going to use it as | 16 Q Was he allowed to use a single-occupant male |
| 17 | Exhibit A? | 17 restroom? |
| 18 | A I don't recall whether he was -- or -- I knew | 18 MR. YOUNG: Standing objection. |
| 19 | that he was or not. | 19 THE WITNESS: Yes, our -- my understanding is |
| 20 | Q And in your memo to Tom Rodriguez, you | 20 he was allowed to use single-occupant restrooms. |
| 21 | indicated, "In that regard" -- you see the paragraph | 21 BY MS. ENGLAND: |
| 22 | that says, "In that regard"? | 22 Q Was he allowed to use a single-occupant |
| 23 | A Yes. | 23 restroom that was marked with the male sign? |
| 24 | Q "Officer Roberts was told that due to the fact | 24 MR. YOUNG: Standing objection. |
| 25 | that he was still biologically female, he would not be | 25 //// |
| | Page 259 | Page 261 |
| 1 | allowed to use the male restroom." | 1 BY MS. ENGLAND: |
| 2 | And that's consistent with all the testimony | 2 Q He wasn't, was he? |
| 3 | you gave already about the meetings on November 22nd | 3 A No -- yes, my -- that direction, or my |
| 4 | and the advice that you gave School District Police | 4 understanding of the District's position communicated |
| 5 | Department officials who then conveyed it to Officer | 5 to him was that he was allowed to use single-occupant |
| 6 | Roberts; is that right? | 6 restrooms. |
| 7 | MR. YOUNG: Standing objection. | 7 Q If that single-occupant restroom was marked |
| 8 | THE WITNESS: Yes. | 8 with the male sign, he was not permitted to use it |
| 9 | BY MS. ENGLAND: | 9 under this ban, was he? |
| 10 | Q And then it says, "Further because his | 10 MR. YOUNG: Standing objection. |
| 11 | appearance was of the male gender, we would not require | 11 THE WITNESS: That's not my understanding. |
| 12 | him to use the female restroom." Do you see that? | 12 BY MS. ENGLAND: |
| 13 | A I do. | 13 Q So you're saying that during this period of |
| 14 | Q Do you recall having a discussion with Officer | 14 time, your understanding was that Brad Roberts was |
| 15 | Roberts about that issue? | 15 permitted to use single-use male restrooms at the |
| 16 | MR. YOUNG: Standing objection. | 16 School District? |
| 17 | THE WITNESS: Yes. | 17 MR. YOUNG: Standing objection. |
| 18 | BY MS. ENGLAND: | 18 THE WITNESS: Yes. |
| 19 | Q And wasn't it Brad Roberts who said, "Because | 19 BY MS. ENGLAND: |
| 20 | I look male and because I identify with the male | 20 Q Would it surprise you, Mr. Okazaki, that you |
| 21 | gender, I am not willing to use the female restroom, or | 21 are the only person who thinks that Brad Roberts was |
| 22 | it would be inappropriate for me," that it was Officer | 22 permitted to use single-occupant male restrooms at |
| 23 | Roberts who initiated that? | 23 Clark County School District facilities between October |
| 24 | MR. YOUNG: Standing objection. | 24 2011 and 2012? |
| 25 | THE WITNESS: I don't recall who initiated | 25 A Yes. |

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| 1 | Q And, in fact, do you recall that Officer | 1 provide him anything in writing. |
| 2 | Roberts pointed out on November 22nd, 2011, in that | 2 BY MS. ENGLAND: |
| 3 | meeting where, in fact, he heard you tell him he can't | 3 Q Okay. And then if you look at page -- you're |
| 4 | use single-occupant male restrooms, that he said that | 4 on Exhibit 30. Did you assist Mr. Rodriguez in |
| 5 | the restrooms at that building where you were, both | 5 providing us, which also has as an exhibit your memo |
| 6 | single-occupant ones were -- had gender-specific, and | 6 which we were just discussing? |
| 7 | he was not permitted to use those? | 7 A No, I did not assist Tom Rodriguez in |
| 8 | MR. YOUNG: Standing objection. | 8 preparing this Exhibit 30. |
| 9 | BY MS. ENGLAND: | 9 Q And do you see on page 2 of the School |
| 10 | Q Do you remember that? | 10 District's response to the Nevada Equal Rights |
| 11 | A I do not. | 11 Commission Item No. 6? |
| 12 | Q And, in fact, at police headquarters where you | 12 A I see an Item No. 6. |
| 13 | had the meeting with him on November 22nd, 2011, did | 13 Q And it says: |
| 14 | you go out and look at the two single-use restrooms | 14 "On November 22, 2011, a meeting was attended |
| 15 | that would be available for him? | 15 by Officer Roberts; Ms. Jane Heenan of Equality of |
| 16 | A I did not go out and look at any restrooms. | 16 Southern Nevada; Sergeant Phil Gervasi, President of |
| 17 | Q You say you promised to make it available to | 17 the Clark County School District Police Department |
| 18 | him. Do you understand that police headquarters where | 18 Union; Mr. Jon Okazaki, Senior Assistant General |
| 19 | you had this meeting, where you claim now that you | 19 Counsel; Captain Anthony York; and Lieutenant Kenneth |
| 20 | promised to make it available to him, and where you now | 20 Young to discuss Officer Roberts' transition from |
| 21 | claim that he was permitted to use single-occupant male | 21 female to male. At that meeting, the School District |
| 22 | restrooms, that there was no restroom in that police | 22 acknowledged Officer Roberts' female to male |
| 23 | headquarters that he was permitted to use -- | 23 transgender, acknowledged that Officer Roberts |
| 24 | MR. YOUNG: Standing objection. | 24 identified with the male gender, acknowledged that he |
| 25 | ////// | 25 wanted to be called Brad Roberts, and acknowledged that |
| | Page 263 | Page 265 |
| 1 | BY MS. ENGLAND: | 1 Officer Roberts wanted masculine pronouns to be used |
| 2 | Q -- and that everyone who occupied that | 2 when referring to him. The School District, however, |
| 3 | building has conceded to that fact? | 3 rejected Officer Roberts' request to use the male |
| 4 | A No. | 4 restroom. Specifically, Mr. Okazaki advised Officer |
| 5 | MR. YOUNG: Standing objection. | 5 Roberts that he could not use the male restroom until |
| 6 | BY MS. ENGLAND: | 6 he had a genital, open paren, sex change surgical |
| 7 | Q So your direction apparently, now as you're | 7 procedure. Officer Roberts was advised to use |
| 8 | stating it, was not clear enough, and that Brad Roberts | 8 gender-neutral or unisex restrooms." |
| 9 | was indeed during this year allowed to use single-use | 9 Mr. Okazaki, is it your testimony here today |
| 10 | male restrooms even though he had not had a sex change | 10 that that statement to the Nevada Equal Rights |
| 11 | operation? | 11 Commission is inaccurate, and that indeed what you're |
| 12 | MR. YOUNG: Standing objection. | 12 saying today is that Officer Roberts was indeed allowed |
| 13 | THE WITNESS: Yes. | 13 to use single-occupant male restrooms? |
| 14 | BY MS. ENGLAND: | 14 MR. YOUNG: Standing objection. |
| 15 | Q But you never committed these directions in | 15 THE WITNESS: Yes, I would say it's |
| 16 | writing to Officer Roberts, did you, that, "Brad, it's | 16 incomplete. |
| 17 | okay for you to use single-use male restrooms at Clark | 17 BY MS. ENGLAND: |
| 18 | County School District facilities"? | 18 Q Okay. We're done with that. |
| 19 | MR. YOUNG: Standing objection. | 19 I would ask you to go to Exhibit No. 31. |
| 20 | THE WITNESS: No, I didn't -- I didn't -- I | 20 A Okay. |
| 21 | don't believe we provided Officer Roberts with | 21 Q Let's go back to Exhibit 30. |
| 22 | anything, any of this in writing in response to -- I | 22 If this representation to the Nevada Equal |
| 23 | remember, you know, Captain York indicating that he'll | 23 Rights Commission is incorrect, and if, as you say, |
| 24 | provide something in writing to Officer Roberts' | 24 contrary to every other witness who has been deposed, |
| 25 | requests. And then we had the meeting, and we did not | 25 that Brad Roberts was permitted to use male |

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| <p>1 single-occupant restrooms during this prohibition 2 period, why is it that you didn't clarify this in all 3 of these submissions to the Nevada Equal Rights 4 Commission?</p> <p>5 MR. YOUNG: Standing objection.</p> <p>6 THE WITNESS: First of all, I didn't say that 7 this was incorrect. I said it was arguably incomplete.</p> <p>8 The District's position on this was that Brad 9 Roberts was not going to be allowed to use the male 10 restroom. And as an alternative, he had to use either 11 gender-neutral or single-occupancy restrooms. I do not 12 recall at the meeting on November 22nd there being a 13 question about the only bathroom in the police station 14 single occupancy had gender identifications, and can I 15 use -- can I use male-identified single-occupancy 16 restroom? The position of the District was that 17 Officer Roberts was not going to be allowed to use a 18 community male restroom until his biology matched that 19 gender. And he was told that he needed to use 20 single-occupancy, gender-neutral type facilities to 21 avoid that situation.</p> <p>22 BY MS. ENGLAND:</p> <p>23 Q So these things --</p> <p>24 A That's what I represented to -- that's my 25 recollection of what was told to Officer Roberts during</p> | <p>1 what -- you know, as to what was intended, or what was 2 received, or what was followed, you know -- but I don't 3 recall there being any confusion at the time that this 4 was being discussed with Officer Roberts.</p> <p>5 BY MS. ENGLAND:</p> <p>6 Q And the person who was discussing it was you?</p> <p>7 A In that meeting on November 22nd, yes.</p> <p>8 Q And are you certain, as you sit here today, 9 that -- well, strike that.</p> <p>10 You were the one who was articulating the 11 District's position to Officer Roberts?</p> <p>12 A Yes.</p> <p>13 Q And so if there was any confusion that was 14 created, it was created by you, was it not?</p> <p>15 MR. YOUNG: Objection. Argumentative. Also, 16 standing objection.</p> <p>17 THE WITNESS: No.</p> <p>18 BY MS. ENGLAND:</p> <p>19 Q And you did not put the specifics of the ban 20 in writing to Officer Roberts, did you?</p> <p>21 A No.</p> <p>22 Q And now as you're sitting here today, you're 23 saying that Officer Roberts was indeed permitted, and 24 that you told him that he was permitted to use 25 single-use male restrooms?</p> |
| <p>1 that meeting. That was my understanding of everybody's 2 understanding, including Officer Roberts. And then 3 that's what I summarized in my memorandum to Tom 4 Rodriguez. And I believe that is the -- that was the 5 District's position.</p> <p>6 Q Okay. So go back to Exhibit 30. Go to your 7 memo, which is the last part of this, and show us, or 8 please read the language where you claim now, in 9 contradiction to everyone else in this case, that 10 Officer Roberts was told that he was permitted to use 11 male single-occupant restrooms.</p> <p>12 MR. YOUNG: Standing objection.</p> <p>13 THE WITNESS: It says, "We promised to always 14 make available to him, and therefore require him to 15 use, a gender-neutral or single-occupant restroom until 16 such time that he became biologically male."</p> <p>17 I think the confusion here is that it's not 18 articulated about what if the single-occupancy restroom 19 is designated male?</p> <p>20 BY MS. ENGLAND:</p> <p>21 Q So let's answer that question. Who created 22 that confusion?</p> <p>23 MR. YOUNG: Standing objection.</p> <p>24 THE WITNESS: I don't think anybody created 25 it. I think it's -- if there's an issue now as to</p> | <p>1 Page 267</p> <p>1 A No, I -- my testimony was I don't recall it 2 being -- the detail of single-occupancy restrooms with 3 a designation of male. I don't remember that being -- 4 that coming up.</p> <p>5 Q So you didn't make that clear to Officer 6 Roberts when you told him what the District's position 7 was, did you?</p> <p>8 A Correct, because it didn't come up.</p> <p>9 Q And as you sit here today, in your mind, you 10 believe that the District's position at that time, 11 which you did not make clear, was that Officer Roberts 12 was permitted at Clark County School District 13 facilities to use a single-occupant restroom that was 14 not gender neutral, that was, in fact, marked "male"?</p> <p>15 That's your testimony here today?</p> <p>16 A Yes. My understanding of the District's 17 position was that Officer Roberts was allowed to use 18 single-occupancy restrooms.</p> <p>19 Q That were -- you keep lopping off the part of 20 the question that I'm asking. And this is incredibly 21 important, Mr. Okazaki. So I would appreciate it if 22 you would actually answer the question.</p> <p>23 Was -- is it your testimony here today that 24 the District's position on November 22nd, 2011, was 25 that Officer Brad Roberts was permitted to use</p> |

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| <p>1 single-occupant male restrooms at Clark County School 2 District facilities?</p> <p>3 MR. YOUNG: Standing objection. Also, 4 argumentative. You can answer.</p> <p>5 THE WITNESS: Yes.</p> <p>6 BY MS. ENGLAND:</p> <p>7 Q And was it the District's position at the time 8 that Officer Roberts was permitted to use single-use 9 male-specific restrooms even though he had not yet 10 provided medical documentation that he had -- that his 11 genitals had been changed to male?</p> <p>12 MR. YOUNG: Standing objection.</p> <p>13 THE WITNESS: Yes.</p> <p>14 BY MS. ENGLAND:</p> <p>15 Q And your testimony here today is that the 16 issue of Brad Roberts being allowed now, as you say, to 17 use single-use male restroom facilities at Clark County 18 School District did not come up during the November 19 22nd, 2011, meeting?</p> <p>20 MR. YOUNG: Standing objection.</p> <p>21 THE WITNESS: Correct, not that I recall.</p> <p>22 BY MS. ENGLAND:</p> <p>23 Q Okay. So now we go back to Exhibit 30. 24 Looking at your exhibit -- I'm sorry -- your 25 memo, it says, we were on the line which says,</p> | <p>1 BY MS. ENGLAND: 2 Q Sure. 3 After the ban went in place, did you undertake 4 any survey or undertake to find out any facts about 5 whether or not it was difficult for Officer Roberts to 6 complete his work because this ban was in place which 7 prohibited him from using male restroom facilities at 8 the buildings he routinely visited?</p> <p>9 MR. YOUNG: Standing objection.</p> <p>10 THE WITNESS: No.</p> <p>11 BY MS. ENGLAND:</p> <p>12 Q Did you, in that meeting on November 22nd, 13 2011, ask Brad Roberts if this ban about using restroom 14 facilities was going to make it more difficult for him 15 to do his job?</p> <p>16 A No.</p> <p>17 MR. YOUNG: Standing objection.</p> <p>18 BY MS. ENGLAND:</p> <p>19 Q And other than the case law that you were 20 referring to, you did not provide Officer Roberts with 21 any other justification for the ban; isn't that 22 correct?</p> <p>23 MR. YOUNG: Standing objection.</p> <p>24 THE WITNESS: I don't know what the rationale 25 behind the position was discussed. The idea that, you</p> |
| <p>1 "Instead, we promised to always make available to him, 2 and therefore require him to use, a gender-neutral or 3 single-occupant restroom until such time that he became 4 biologically male."</p> <p>5 Mr. Okazaki, please -- did you undertake or 6 ask anyone in the police department which buildings 7 Officer Roberts routinely went to and whether or not 8 there were facilities he could use?</p> <p>9 MR. YOUNG: Standing objection.</p> <p>10 THE WITNESS: Not that I recall.</p> <p>11 BY MS. ENGLAND:</p> <p>12 Q And after the ban was in place which 13 prohibited Officer Roberts from using, as you're now 14 saying, community male restrooms, did you undertake to 15 ascertain in any way whether Officer Roberts was 16 inconvenienced or whether his -- it would have made it 17 more difficult for him to do his job because there were 18 no restroom facilities at the School District's 19 buildings that he was routinely visiting?</p> <p>20 MR. YOUNG: Standing objection. And object to 21 the extent the question mischaracterizes facts in 22 evidence.</p> <p>23 THE WITNESS: Could you repeat the beginning 24 of your question? I don't know what the question was 25 to me. Was it -- did -- could you repeat the question?</p> | <p>1 know, that we're trying to consider everybody's rights, 2 and so when we're talking about going into a 3 community -- see, my understanding has always been 4 that -- and I think this is completely accurate -- that 5 Officer Roberts wanted to use just your general male 6 restroom that are used communally by any male who 7 happens to be by. He wants to use that one. I don't 8 know if the discussion -- if the rationale of trying to 9 respect everybody's rights in that bathroom was 10 discussed with him. I seem to recall there's a 11 possibility that we kind of talked -- that was kind of 12 mentioned -- as when they said, why would you do this, 13 and why would you take this position? The legal one 14 was, you know, because the response was, "Well, you 15 know, NERC has come out with their opinion." And I 16 said, "I'm fully aware of NERC's position on this 17 matter. However, we disagree, and we believe that it's 18 not unlawful discrimination to require this." And then 19 I said -- you know, I probably mentioned that there is 20 case law or legal authority which supports that 21 position.</p> <p>22 BY MS. ENGLAND:</p> <p>23 Q And that case law was the Title IX case where 24 the School District had gotten summary judgment against 25 a transgender student who never enrolled at Green</p> |

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| 1 | Valley High School? | 1 patrolled? |
| 2 | MR. YOUNG: Asked and answered, I don't know | 2 MR. YOUNG: Standing objection. Also, |
| 3 | how many times. | 3 mischaracterizes facts in evidence. |
| 4 | THE WITNESS: That was one of them, yeah. | 4 THE WITNESS: Yeah -- no -- I'm not aware -- |
| 5 | BY MS. ENGLAND: | 5 I'm not -- that's not my understanding. |
| 6 | Q And the other one you've now remembered is the | 6 BY MS. ENGLAND: |
| 7 | Goins case, which is a 2001 Minnesota decision, so some | 7 Q And no other employee at the Clark County |
| 8 | 10 to 11 years before this based on Minnesota law -- | 8 School District was subjected to this ban, were they? |
| 9 | MR. YOUNG: Objection. I believe it's been | 9 A At the time, I am not aware of any other |
| 10 | asked and answered. | 10 gender identity employer -- employee who, based upon |
| 11 | BY MS. ENGLAND: | 11 gender identity, had requested to use and was denied |
| 12 | Q And Minnesota Fair Employment Practices Law? | 12 permission to use a restroom that did not match their |
| 13 | A That was another one. | 13 biological anatomy. |
| 14 | Q And how do you consider yourself respecting | 14 Q And all other employees were permitted to use |
| 15 | Brad Roberts' rights under the new law in that meeting | 15 the restroom facility of their choice? |
| 16 | on November 22nd? | 16 MR. YOUNG: Standing objection. |
| 17 | MR. YOUNG: Standing objection. Also, | 17 THE WITNESS: No, that's not correct. |
| 18 | argumentative. | 18 BY MS. ENGLAND: |
| 19 | THE WITNESS: The District -- I believe the | 19 Q Please identify all other employees who the |
| 20 | District was respecting Brad Roberts' gender identity | 20 District subjected to the genital check that -- or, |
| 21 | rights by acknowledging that he has -- his gender | 21 genital disclosure that Brad Roberts was subjected to. |
| 22 | identity has switched to that of male, and he was going | 22 MR. YOUNG: Standing objection. |
| 23 | to be treated as a male, and referred to as a male, and | 23 THE WITNESS: I'm not aware of any employee |
| 24 | that he was not going to be in any way discriminated, | 24 who was specifically told that they had to use the |
| 25 | or harassed, or in any way treated differently because | 25 restroom that matched their biological anatomy. |
| | Page 275 | Page 277 |
| 1 | of his gender identity. | 1 BY MS. ENGLAND: |
| 2 | BY MS. ENGLAND: | 2 Q And please identify any other employee besides |
| 3 | Q Well, he was treated differently. He wasn't | 3 Brad Roberts who was asked by School District officials |
| 4 | allowed to use male restrooms at the Clark County | 4 to disclose the type, the gender specificity of the |
| 5 | School District for a whole year. | 5 genitals that they had. Name one other employee |
| 6 | MR. YOUNG: Objection. Argumentative. | 6 besides Brad Roberts. |
| 7 | BY MS. ENGLAND: | 7 MR. YOUNG: Standing objection. And object to |
| 8 | Q Isn't that different treatment? | 8 the extent it mischaracterizes facts in evidence. |
| 9 | A No, treated differently than other people | 9 THE WITNESS: I'm not aware of us having to |
| 10 | similarly situated, is what I -- is usually the -- is | 10 make that request in response to the employee's request |
| 11 | what I believe, you know, when you talk about | 11 to use a restroom that did not match their biological |
| 12 | discrimination or unequal treatment, it's being treated | 12 anatomy. |
| 13 | differently than people who are similarly situated. | 13 BY MS. ENGLAND: |
| 14 | Q And Brad Roberts was not allowed to use | 14 Q And name one other employee who was asked to |
| 15 | restroom facilities at the Clark County School District | 15 make a disclosure about their biological anatomy other |
| 16 | facilities that he routinely visited as a patrol | 16 than Brad Roberts. |
| 17 | officer; isn't that correct? | 17 MR. YOUNG: Standing objection. And also |
| 18 | MR. YOUNG: Standing objection. | 18 mischaracterizes facts in evidence. You can respond. |
| 19 | THE WITNESS: I'm sorry. Repeat that | 19 THE WITNESS: I'm not aware of any other |
| 20 | question. | 20 employee who, in response to the request to use a |
| 21 | BY MS. ENGLAND: | 21 restroom that did not match their biological anatomy, |
| 22 | Q Sure. | 22 being asked to provide any kind of evidence of their |
| 23 | Brad Roberts, during that year of prohibition, | 23 anatomy. |
| 24 | was not allowed to use the male restroom facilities, | 24 BY MS. ENGLAND: |
| 25 | nor any restroom facilities at the schools he routinely | 25 Q So regardless of a request -- take that out -- |

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| 1 | name any other employee besides Brad Roberts who was | 1 Q Mr. Thomas, Ethan Thomas? |
| 2 | required to disclose the gender specificity of their | 2 A Ethan Thomas. |
| 3 | genitals in order to use the restroom of their choice. | 3 Q Did those three men provide you with the |
| 4 | MR. YOUNG: Standing objection. Also, object | 4 information that you're prepared to testify here today |
| 5 | to the extent the question suggests that Mr. Roberts | 5 as to what the Clark County School District's position |
| 6 | was required to disclose anything about his genitals. | 6 was when the Clark County School District was found to |
| 7 | It mischaracterizes the facts in evidence. | 7 have committed illegal discrimination by the Nevada |
| 8 | THE WITNESS: I'm not aware of any other | 8 Equal Rights Commission? |
| 9 | employee. | 9 MR. YOUNG: I'm going to object. It |
| 10 | BY MS. ENGLAND: | 10 mischaracterizes what the actual topic is. You said |
| 11 | Q So now go to Exhibit 31. This is the Nevada | 11 its position. It says these actions in response to, |
| 12 | Equal Rights Commission May 3rd, 2012, Determination, | 12 not CCSD's position. So please be specific -- now that |
| 13 | addressed to the Respondent, to Mr. Rodriguez, as the | 13 we've actually gotten to Topic No. 4 finally at |
| 14 | Affirmative Action Manager of the Clark County School | 14 11:00 -- please ask questions that are specific to the |
| 15 | District PD. | 15 actual topic that you devise and not mischaracterize |
| 16 | When did you first see this determination? | 16 the nature of the topic, Ms. England. It's confusing. |
| 17 | A Personally, I think the first time I saw this | 17 THE WITNESS: Yes. |
| 18 | determination -- first time I have a specific | 18 MR. YOUNG: And I believe it's deliberately |
| 19 | recollection of seeing this determination was in my | 19 so. So please listen carefully to the question. |
| 20 | meeting with Scott Greenberg and legal counsel | 20 THE WITNESS: Okay. Could you repeat the |
| 21 | approximately a week before, or a few days before my | 21 question? |
| 22 | last deposition. | 22 BY MS. ENGLAND: |
| 23 | Q So is it your testimony here today, | 23 Q You already answered the question "yes." |
| 24 | Mr. Okazaki, that you never saw the Nevada Equal Rights | 24 A Okay. |
| 25 | Commission's determination indicating that the School | 25 Q So what was the information that Mr. Greenberg |
| | Page 279 | Page 281 |
| 1 | District is committing illegal discrimination until | 1 provided you, and what was the information that |
| 2 | June of 2016? | 2 Mr. Young and Mr. Thomas provided you on this topic? |
| 3 | A Yes. | 3 MR. YOUNG: Asked and answered. |
| 4 | Q And so is that the first time you had a chance | 4 THE WITNESS: They provided me the information |
| 5 | to look at it and read it in some detail? | 5 in regard to the District's response to the |
| 6 | A Yes. | 6 determination. |
| 7 | Q And did you in June of 2016, two weeks ago, | 7 BY MS. ENGLAND: |
| 8 | read it? | 8 Q And who made the decision about what the |
| 9 | A Yes. | 9 District's response was going to be back in May 2012 |
| 10 | Q So you were not called upon to provide the | 10 time frame? |
| 11 | decision, or make any decisions, or provide any advice | 11 A It would be Scott Greenberg, Superintendent |
| 12 | back in the May 2012 time frame for the School | 12 Jones, Tom Rodriguez -- those three. |
| 13 | District's response to this? | 13 Q As opposed to who it would be, please tell us, |
| 14 | A No. | 14 as the 30(b)(6) Designee on this topic, who at the |
| 15 | Q But you're here today to testify as the School | 15 School District actually made the decision about what |
| 16 | District's 30(b)(6) on what the School District did and | 16 the District's response was going to be to the May 3rd, |
| 17 | thought about this finding of discrimination? | 17 2012, determination that the School District was |
| 18 | A Yes. | 18 committing illegal discrimination against Brad Roberts. |
| 19 | Q And who did you speak to to prepare yourself? | 19 MR. YOUNG: Standing objection. Outside the |
| 20 | A Scott Greenberg and legal counsel. | 20 scope. |
| 21 | Q When you say "Scott Greenberg and legal | 21 THE WITNESS: Yes, those three people made the |
| 22 | counsel," who are you talking about now as legal | 22 decision. |
| 23 | counsel? | 23 BY MS. ENGLAND: |
| 24 | A Mr. Young, and I don't know -- I can't | 24 Q Who told you that those three people made that |
| 25 | remember Ethan's last name. | 25 decision? |

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| 1 | MR. YOUNG: Standing objection. | 1 the School District and developed the actions which |
| 2 | THE WITNESS: I'm not sure anybody told me | 2 would be taken to implement that decision? |
| 3 | that those three people made the decision. | 3 MR. YOUNG: Standing objection. |
| 4 | BY MS. ENGLAND: | 4 THE WITNESS: No, I wouldn't agree with that. |
| 5 | Q So in preparing to be the 30(b)(6) Designee | 5 I would say that Scott Greenberg was primarily |
| 6 | today, you did not find out exactly who at the District | 6 responsible for drafting and preparing the District's |
| 7 | either individually, collectively, made the decision | 7 response to the determination with the approval of the |
| 8 | that was going to be the School District's response to | 8 superintendent and Tom Rodriguez. |
| 9 | the finding of discrimination on May 3rd? | 9 BY MS. ENGLAND: |
| 10 | MR. YOUNG: Standing objection. The topic | 10 Q So who at the School District made the |
| 11 | says, "CCSD's actions," not "decision." It says | 11 decision that the District didn't agree with the Nevada |
| 12 | "actions." | 12 Equal Rights Commission? The Nevada Equal Rights |
| 13 | THE WITNESS: Yes, my answer -- my answer on | 13 Commission said that the School District is |
| 14 | behalf of the Clark County School District is that | 14 discriminating against Brad Roberts. So who made the |
| 15 | Scott Greenberg was primarily responsible for preparing | 15 decision at the School District that, "We're not going |
| 16 | the legal response to this determination. I understand | 16 to agree with that"? |
| 17 | that Tom Rodriguez was involved in the process because | 17 MR. YOUNG: Standing objection. |
| 18 | he is our Affirmative Action Officer primarily | 18 THE WITNESS: Scott Greenberg, Superintendent |
| 19 | responsible for dealing with NERC complaints, and also | 19 Jones, and Tom Rodriguez. |
| 20 | that Superintendent Jones was aware of the District's | 20 BY MS. ENGLAND: |
| 21 | position that the legal office and Tom Rodriguez was | 21 Q Did you speak with Superintendent Jones in |
| 22 | asserting throughout this entire progress. | 22 preparing yourself to come here today to find out if he |
| 23 | BY MS. ENGLAND: | 23 did anything other than be aware of it and approve it, |
| 24 | Q So Superintendent Jones' involvement was being | 24 that he was actually involved in the decision-making |
| 25 | aware of what the District's position was to be | 25 process where the Nevada Equal Rights Commission has |
| | Page 283 | Page 285 |
| 1 | communicated to the Nevada Equal Rights Commission? | 1 said the School District is committing illegal Nevada |
| 2 | A Aware of the position and approving it on | 2 discrimination? |
| 3 | behalf of the District. | 3 A No. |
| 4 | MR. YOUNG: And standing objection to this | 4 Q And so what do you know about Superintendent |
| 5 | line of questioning. | 5 Jones' actual participation or involvement in the |
| 6 | BY MS. ENGLAND: | 6 decision and the subsequent actions? |
| 7 | Q As far as you know, in preparing to be the | 7 MR. YOUNG: Standing objection. |
| 8 | 30(b)(6) Designee here today on Subject No. 4, | 8 THE WITNESS: That he was aware of the |
| 9 | Superintendent Jones had no substantive involvement in | 9 District's position, and agreed with it, and approved |
| 10 | the development of the decision and the actions taken | 10 it. |
| 11 | thereafter; rather, it was simply that he was aware of | 11 BY MS. ENGLAND: |
| 12 | it and that he later approved it? Is that correct? | 12 Q So according to this Nevada Equal Rights |
| 13 | A Yes. | 13 Commission decision finding discrimination, it |
| 14 | Q What involvement did Mr. Rodriguez have | 14 indicates that Brad Roberts told the School District |
| 15 | substantively in the decision and in the actions taken | 15 that he would be using male restroom or facilities as |
| 16 | as a result of that decision? | 16 necessary, and that the School District told Roberts |
| 17 | MR. YOUNG: Standing objection as to the | 17 that he could not use the male restroom until he had |
| 18 | characterization that the topic includes decision | 18 provided legal documentation stating that he had |
| 19 | making as opposed to just actions. | 19 changed his gender from female to male. You're |
| 20 | THE WITNESS: I don't know that Tom Rodriguez | 20 testifying here today that that's not what Brad Roberts |
| 21 | had any substantive involvement in the District's | 21 was told, and that, rather, he could use male |
| 22 | response to the determination. | 22 facilities so long as they were single-use male |
| 23 | BY MS. ENGLAND: | 23 facilities. |
| 24 | Q So primarily it was Scott Greenberg who | 24 You need to be on the first page of |
| 25 | developed substantively, made the decision on behalf of | 25 Exhibit 31. |

| | Page 286 | Page 288 |
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| 1 | A No, I said -- | 1 indicates that the Nevada Equal Rights Commission has |
| 2 | MR. YOUNG: First, I'm going to object to | 2 concluded that the School District is committing |
| 3 | counsel's characterization of what Exhibit 31 actually | 3 illegal discrimination? You recognize that, don't you? |
| 4 | is. You can go ahead and respond. | 4 A Yes. |
| 5 | THE WITNESS: No, I said that Officer Roberts | 5 Q And this says, "Respondent does not offer any |
| 6 | was told that he could not use the male restroom, and | 6 explanation for its policy other than a previous case |
| 7 | that -- | 7 in which the court found that requiring a pre-operative |
| 8 | BY MS. ENGLAND: | 8 male-to-female transgender to use a gender-neutral or |
| 9 | Q And that included single-use male restrooms, | 9 single-occupant restroom was not unlawful |
| 10 | did it not? | 10 discrimination." |
| 11 | A No. I said he was advised that he could not | 11 That was the information -- that was the |
| 12 | use male restrooms, and was told to use gender-neutral | 12 single case that you've talked about, which is the Doe |
| 13 | or single-occupancy restrooms. | 13 versus School District case, the Mahan decision under |
| 14 | Q This Exhibit 31 says that, "Respondent told | 14 Title IX granting summary judgment; right? |
| 15 | Roberts that he could not use the male restroom until | 15 A What is the question, that the case they're |
| 16 | he had provided legal documentation stating that he had | 16 referring to in that is that case? |
| 17 | changed his gender from female to male." | 17 Q Yes. |
| 18 | Do you see that sentence? | 18 A Yes. |
| 19 | A I do. | 19 Q And it says, "Although Respondent does not |
| 20 | Q And are you saying that that was not the | 20 provide any details, it may be referring." So does |
| 21 | District's position; that the Nevada Equal Rights | 21 that suggest to you that the School District didn't |
| 22 | Commission has completely misstated it; and that, in | 22 actually identify the case it was relying on, and that |
| 23 | fact, Brad Roberts was permitted to use a | 23 the Nevada Equal Rights Commission was left to try to |
| 24 | single-occupant male restroom during this year of | 24 figure it out? |
| 25 | prohibition? Is that what your testimony is here | 25 MR. YOUNG: Standing objection. |
| | Page 287 | Page 289 |
| 1 | today, Mr. Okazaki? | 1 THE WITNESS: No, I have no idea why the |
| 2 | MR. YOUNG: I'm going to object to the | 2 Nevada Equal Rights Commission is saying what it's |
| 3 | question to the extent it mischaracterizes or leaves | 3 saying in its determination. That was not the only |
| 4 | out information pertaining to what is stated on | 4 explanation given, or justification given for its |
| 5 | Exhibit 31. | 5 position. So when the Nevada Equal Rights Commission |
| 6 | THE WITNESS: No, he was told he could not use | 6 says that, we don't necessarily agree with that. |
| 7 | a male restroom until he provided evidence of the | 7 BY MS. ENGLAND: |
| 8 | anatomical change to match the male genital. | 8 Q But the Nevada Equal Rights Commission is |
| 9 | BY MS. ENGLAND: | 9 saying, "This is all the School District has told us." |
| 10 | Q And that prohibition included single-use male | 10 A And we don't agree with that. |
| 11 | restrooms, did it not? | 11 MR. YOUNG: Standing objection. |
| 12 | A No. | 12 BY MS. ENGLAND: |
| 13 | Q And then this goes on to say that, "At another | 13 Q So it says -- the Nevada Equal Rights |
| 14 | meeting on November 22nd, Respondent reiterated its | 14 Commission says, "It may be referring to a 2008 case in |
| 15 | position that Roberts could not use the male restroom | 15 which a pre-operative male-to-female transgendered |
| 16 | until he had a sex change surgical procedure." | 16 student sued Respondent when it banned the student from |
| 17 | That is accurate because -- is it not -- | 17 using the communal ladies' room. However, that case |
| 18 | because that's what you told Brad Roberts on November | 18 was brought pursuant to Title IX, and it was decided |
| 19 | 22nd, 2011? | 19 before the Nevada Legislature amended NRS chapters 233 |
| 20 | A I don't know if I used those exact words. | 20 and 613 in 2011 to include gender identity or |
| 21 | But, yes, he was told he was not going to be allowed to | 21 expression as a protected category." |
| 22 | use the male restroom until his anatomy matched that | 22 Do you see that? |
| 23 | gender. | 23 A Yes, I see that. |
| 24 | Q And this Nevada Equal Rights Commission | 24 Q You didn't turn the page on the exhibit. |
| 25 | determination, you understand that this determination | 25 A I know what it says. |

| | Page 290 | Page 292 |
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| 1 | <p>Q Okay. It says, "Courts have recognized the 2 legitimacy of restrooms segregated on the basis of sex. 3 However, to create restrooms for each sex but then to 4 require Roberts to prove his conformity with 5 Respondent's expectations regarding the male anatomy in 6 order to use the men's bathrooms violates Nevada's 7 anti-discrimination law. Probable cause supports the 8 charge of discrimination based on gender identity and 9 expression."</p> | <p>1 behalf of the School District, Mr. Greenberg does not 2 point out that Brad Roberts is permitted -- as you've 3 testified here today, contradictory to what everyone 4 else has testified to -- that Brad Roberts was 5 permitted to use single-use male restrooms at School 6 District facilities. It does not point that out, does 7 it?</p> |
| 10 | <p>So who decided at the School District what 11 actions would be undertaken by the School District upon 12 a finding that Brad Roberts is being discriminated 13 against in May of 2012?</p> | <p>8 A No.</p> |
| 14 | <p>MR. YOUNG: I'm just going to object. The 15 finding that there was probable cause to believe that 16 there was a violation, is what the document says. You 17 can respond.</p> | <p>9 MR. YOUNG: The document speaks for itself.</p> |
| 18 | <p>THE WITNESS: I answered that question. Scott 19 Greenberg, with the -- with the awareness and the 20 approval of Superintendent Jones and Tom Rodriguez.</p> | <p>10 BY MS. ENGLAND:</p> |
| 21 | <p>BY MS. ENGLAND:</p> | <p>11 Q And the only two cases that are mentioned in 12 Mr. Greenberg's challenge on behalf of the School 13 District is the Goins case, which you mentioned 14 earlier, do you see that, and the Title IX case?</p> |
| 22 | <p>Q And what were those actions?</p> | <p>15 A Well, there's another case cited.</p> |
| 23 | <p>A To file a response.</p> | <p>16 Q If you look on the first page, the two cases 17 that are cited in that second paragraph about the 18 ability of an employer to prohibit a particular 19 employee from using the restroom of their gender 20 identity are the two cases, the Title IX case that you 21 previously talked about, and the Goins case, the 2001 22 Minnesota case?</p> |
| 24 | <p>MS. ENGLAND: Would you mark that Exhibit 32?</p> | <p>23 A That paragraph references two cases; correct.</p> |
| 25 | <p>(Exhibit 32 marked)</p> | <p>24 Q And the Goins case is an 11-year-old case that 25 dealt with Minnesota law, did it not, 11 years before?</p> |
| | Page 291 | Page 293 |
| 1 | <p>BY MS. ENGLAND:</p> | <p>1 A It looks like the decision date was 2001.</p> |
| 2 | <p>Q May I ask you to look at Exhibit 32, please?</p> | <p>2 Q And then you said the third case is the one</p> |
| 3 | <p>Mr. Okazaki, is this one of the responses that</p> | <p>3 that you're referring to on the second page, which is</p> |
| 4 | <p>you looked at to prepare yourself here today --</p> | <p>4 having to do with OSHA regulations and OSHA regulations</p> |
| 5 | <p>A Yes.</p> | <p>5 requiring, or allowing facilities to have gender</p> |
| 6 | <p>Q -- to be the Clark County School District</p> | <p>6 segregated restroom or bathroom facilities; right?</p> |
| 7 | <p>30(b)(6) Designee on Subject No. 4?</p> | <p>7 MR. YOUNG: I'll object to the extent that the</p> |
| 8 | <p>A Yes.</p> | <p>8 question said "allow" as opposed to "require."</p> |
| 9 | <p>Q And so this was provided to you by either</p> | <p>9 THE WITNESS: Yes.</p> |
| 10 | <p>Mr. Greenberg or by counsel?</p> | <p>10 BY MS. ENGLAND:</p> |
| 11 | <p>A Yes.</p> | <p>11 Q And those OSHA regulations have nothing to do</p> |
| 12 | <p>Q And in this -- what exactly is this document?</p> | <p>12 with how a person is permitted, or how much genital</p> |
| 13 | <p>A Response to the determination.</p> | <p>13 scrutiny they have to undergo in order to use a</p> |
| 14 | <p>Q Is this the Clark County School District's</p> | <p>14 particular sex segregated restroom facility, do they?</p> |
| 15 | <p>response to the Nevada Equal Rights Commission's</p> | <p>15 A No, I think those OSHA regulations are</p> |
| 16 | <p>determination that the School District is</p> | <p>16 relevant to the issue of whether somebody who</p> |
| 17 | <p>discriminating against Brad Roberts?</p> | <p>17 identifies with a gender different than their anatomy</p> |
| 18 | <p>A Yes.</p> | <p>18 should be allowed to use the restroom of the gender to</p> |
| 19 | <p>Q And so would it be fair to characterize the</p> | <p>19 which they identify, or would be required to use the</p> |
| 20 | <p>response, which is, "We are not going to stop doing</p> | <p>20 restroom of the gender that they match anatomically.</p> |
| 21 | <p>what we're doing to Brad Roberts, and we're going to</p> | <p>21 Q So are you saying the OSHA regulations require</p> |
| 22 | <p>fight this and ask the Nevada Equal Rights Commission</p> | <p>22 the provider of the restroom facilities to make persons</p> |
| 23 | <p>to reverse themselves"? Is that a fair statement?</p> | <p>23 undergo genital disclosures before they're permitted to</p> |
| 24 | <p>A Yes.</p> | <p>24 use a restroom facility that's identified as being for</p> |
| 25 | <p>Q And in this response by Mr. Greenberg on</p> | <p>25 a particular gender, either male or female?</p> |

| | Page 294 | Page 296 |
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| 1 | MR. YOUNG: Standing objection. | 1 BY MS. ENGLAND: |
| 2 | THE WITNESS: No. | 2 Q And nowhere in Mr. Greenberg's letter |
| 3 | BY MS. ENGLAND: | 3 espousing the position to the Nevada Equal Rights |
| 4 | Q And, in fact, you don't know what those OSHA | 4 Commission does Mr. Greenberg deal with the new Nevada |
| 5 | regulations say, do you? | 5 law which had gone into effect over six months before |
| 6 | A Meaning -- no -- I understand what it says | 6 that, does it? |
| 7 | here, and what the -- | 7 MR. YOUNG: Standing objection. |
| 8 | Q And that's all you know? | 8 Argumentative. You can answer. |
| 9 | A I understand that those OSHA regulations | 9 THE WITNESS: Yeah, other than the reference |
| 10 | require that bathrooms be segregated for each sex at | 10 to the May 3rd determination which was in regard -- |
| 11 | places of employment, and that these OSHA regulations | 11 BY MS. ENGLAND: |
| 12 | have been adopted by Nevada. | 12 Q Mr. Okazaki -- |
| 13 | Q And do you know the current OSHA regulations | 13 A If I can finish? |
| 14 | which deal specifically with this subject which were | 14 MR. YOUNG: He's answering the question, |
| 15 | issued in 2015? | 15 Kathy. |
| 16 | MR. YOUNG: Standing objection. | 16 MS. ENGLAND: Mr. Okazaki -- |
| 17 | THE WITNESS: No. | 17 MR. YOUNG: Stop interrupting him. |
| 18 | BY MS. ENGLAND: | 18 THE WITNESS: I'll finish my answer. |
| 19 | Q And have you been called upon, Mr. Okazaki, to | 19 MS. ENGLAND: Mr. Okazaki -- |
| 20 | look at the best practices by the OSHA which deal | 20 MR. YOUNG: Go ahead and finish the answer. |
| 21 | specifically with this subject and with gender | 21 Speak right over the top of her, Mr Okazaki. She's |
| 22 | specified restroom facilities? | 22 being rude. |
| 23 | A No. | 23 THE WITNESS: In regard to -- in regard to -- |
| 24 | MR. YOUNG: Standing objection. | 24 other than the reference to the May 3rd determination, |
| 25 | ////// | 25 which was clearly in regard to the new AB 211, the |
| | Page 295 | Page 297 |
| 1 | BY MS. ENGLAND: | 1 provisions of AB 211, there is no specific reference in |
| 2 | Q And do you know whether Mr. Greenberg, when he | 2 Mr. Greenberg's letter, Exhibit 32, to AB 211. |
| 3 | was making these representations to the Nevada Equal | 3 BY MS. ENGLAND: |
| 4 | Rights Commission about OSHA regulations, whether he, | 4 Q Mr. Okazaki, I stopped you, and attempted to |
| 5 | in fact, had updated himself and provided accurate and | 5 stop you because I believe the court reporter reported, |
| 6 | more recent information about what OSHA regulations | 6 and was able to pick up your subvocalization of your |
| 7 | actually said about sex-segregated facilities? | 7 answer to that question which was "yes." And I believe |
| 8 | MR. YOUNG: Standing objection. Are you | 8 if we asked this court reporter to read it back, she |
| 9 | talking about in 2012 what the OSHA regulation said? | 9 will have picked it up. |
| 10 | THE WITNESS: Yes, my -- what Mr. Greenberg | 10 So my question was: Nowhere in this |
| 11 | stated in this, in his letter is accurate. | 11 Exhibit 32 does Mr. Greenberg offer up or discuss the |
| 12 | BY MS. ENGLAND: | 12 new Nevada law which went into effect over six months |
| 13 | Q How do you know that? | 13 before this, i.e., on October 1st, 2011, does it? |
| 14 | A That's the District's position. What Scott | 14 A Other than the reference to the May 3rd |
| 15 | Greenberg said in his letter, which is Exhibit 32, is | 15 determination, which was clearly in regard to AB 211, |
| 16 | accurate. | 16 there is no specific reference to that law in |
| 17 | Q So was it accurate as of 2012? Was | 17 Mr. Greenberg's letter. |
| 18 | Mr. Greenberg -- did you look in to see whether | 18 Q And Mr. Greenberg, on behalf of the School |
| 19 | Greenberg was accurately representing the current best | 19 District, does not offer any explanation about why the |
| 20 | practices as divulged by OSHA and promulgated in 2012? | 20 School District in the face of that new Nevada law has |
| 21 | Did you check in and make sure he was using the most | 21 decided that that law does not apply to the School |
| 22 | accurate ones? | 22 District or to the situation, does it? |
| 23 | MR. YOUNG: Standing objection. | 23 A No, he says that based on this other legal |
| 24 | THE WITNESS: Me personally? No. | 24 authority, it's our position that having this |
| 25 | ////// | 25 prohibition in regard to restroom use does not |

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| 1 | <p>1 violate -- does not constitute unlawful discrimination, 2 so we disagree with their determination that it does. 3 So this is in response to the Nevada Equal Rights 4 Commission's determination that by imposing this 5 restriction on Brad Roberts' sexual identity, or gender 6 identity, that we are engaging in unlawful 7 discrimination and violation of Nevada law. We said we 8 disagree. And that based on this legal authority, we 9 don't think that restriction constitutes unlawful 10 discrimination.</p> <p>11 Q And so the authority that you're speaking of 12 is a 2001 Minnesota case and a Title IX, and you're 13 saying that the District's position was that a 14 three-year-old Title IX case and a 2001 Minnesota case 15 are more authoritative than the Nevada Equal Rights 16 Commission decision and the new Nevada law which went 17 into effect on October 1st, 2011?</p> <p>18 MR. YOUNG: Argumentative. And asked and 19 answered numerous times.</p> <p>20 THE WITNESS: Again, I did not say that our 21 position was that they were more authoritative. Our 22 position was that there was applicable legal authority 23 that held that imposing that restriction did not 24 constitute unlawful discrimination.</p> <p>25 MS. ENGLAND: We'll have this marked as</p> | <p>1 Was the School District aware of this decision 2 at the time it was refusing to stop the practice which 3 the Nevada Equal Rights Commission found was illegal 4 under Nevada law?</p> <p>5 MR. YOUNG: I'll object. It mischaracterizes 6 the nature of the holding or the ruling, the limited 7 ruling in <i>Macy v. Holder</i>.</p> <p>8 THE WITNESS: I am not aware that the District 9 had specific knowledge of this case.</p> <p>10 BY MS. ENGLAND:</p> <p>11 Q And in preparing yourself to be the 30(b)(6) 12 deponent, Designee, for the Clark County School 13 District here today on what actions did the School 14 District take in response to the May 3rd, 2012, 15 determination of discrimination under Nevada law by the 16 Clark County School District, why is it that you didn't 17 find out whether or not the School District knew about 18 the EEOC decision which said transgender discrimination 19 is Title VII discrimination as well, it's a violation 20 of federal law as well? Why didn't you find out 21 whether the School District knew that at the time it 22 was responding and saying, "No, we're still going to 23 prohibit Brad from using restroom facilities"?</p> <p>24 MR. YOUNG: Standing objection. And it's 25 argumentative.</p> |
| | Page 299 | Page 301 |
| | <p>1 Exhibit 33. 2 (Exhibit 33 marked)</p> <p>3 BY MS. ENGLAND:</p> <p>4 Q Mr. Okazaki, the court reporter has handed you 5 what has been marked as Exhibit No. 33, which is an 6 EEOC decision which preceded the May 3rd, 2012, 7 decision of the Nevada Equal Rights Commission finding 8 probable cause that the School District was committing 9 illegal discrimination under Nevada law against Brad 10 Roberts. This decision was issued by the EEOC on April 11 20th. So it came out almost two weeks before the 12 Nevada Equal Rights Commission determination.</p> <p>13 Did the School District take this EEOC 14 decision into account when it cited or refused to 15 comply with the determination and refused to stop 16 its -- what the Nevada Equal Rights Commission felt was 17 illegal discrimination against Brad Roberts?</p> <p>18 A No, I'm not aware that we -- us specifically 19 considering this case.</p> <p>20 Q And so this is even more recent authority than 21 a 2001 Minnesota decision, and a Title IX decision in 22 2008. This is the EEOC, the U.S. Government, EEOC, 23 saying that discrimination against transgender people 24 prohibiting them from using restroom facilities is, 25 among other things, a Title VII violation.</p> | <p>1 THE WITNESS: What I was told by Scott 2 Greenberg, was that he had -- he was aware of the legal 3 authority relating to this issue. And the District's 4 position was as stated in his letter. I do not know 5 whether he specifically reviewed this particular case. 6 And I did not ask him if he reviewed this particular 7 case because I didn't ask him about every possible case 8 there is out there and whether he reviewed that 9 particular case.</p> <p>10 BY MS. ENGLAND:</p> <p>11 Q So you're a lawyer, Mr. Okazaki. What is more 12 authoritative in Nevada, a Ninth Circuit U.S. Court of 13 Appeals case or a Minnesota Supreme Court case?</p> <p>14 A Say it again. A Ninth Circuit --</p> <p>15 Q You know who the Ninth Circuit is?</p> <p>16 A Yes. You're asking me which is more 17 authoritative in Nevada, a Ninth Circuit Court of 18 Appeals case or a Minnesota Supreme Court case?</p> <p>19 Q Yes. Which one?</p> <p>20 A I guess it would depend on the issue. But in 21 general, the Ninth Circuit.</p> <p>22 Q On matters of federal law and the application 23 of federal law, which is more authoritative in Nevada?</p> <p>24 A The Ninth Circuit.</p> <p>25 Q So look at page 5 of the <i>Macy</i> versus <i>Holder</i></p> |

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| 1 | decision, April 20th, 2012. | 1 that said that discrimination based on transgender |
| 2 | MR. YOUNG: Come on, Kathy. Seriously? | 2 status is disparate treatment under Title VII. Do you |
| 3 | There's no jury here. I mean, you're not making any | 3 recognize that? |
| 4 | points by arguing what a case says and what it doesn't | 4 A That's apparently what it says. |
| 5 | say. And it's off topic. I'm going to make my | 5 MR. YOUNG: Fine. And it's also a case that |
| 6 | standing objection. | 6 was under the Gender Motivated Violence Act, not under |
| 7 | BY MS. ENGLAND: | 7 Title VII, not under Title IX. So it's not applicable. |
| 8 | Q You see note 7? | 8 And this is arguable to a judge. And it makes no sense |
| 9 | A Note 7. | 9 to go over this in this deposition, Kathy. You are |
| 10 | Q Do you know how to read -- | 10 wasting time. |
| 11 | A Yes, I do. | 11 BY MS. ENGLAND: |
| 12 | Q -- do you know how to read headnotes in case | 12 Q Mr. Okazaki, in preparing yourself to be the |
| 13 | law? | 13 designated 30(b)(6) on behalf of the Clark County |
| 14 | A Well, the -- my understanding is -- okay -- if | 14 School District about what actions they were taking in |
| 15 | you're looking -- if you're asking me to look at page | 15 May of 2012, by refusing to lift the ban on transgender |
| 16 | 5 -- | 16 Police Officer Brad Roberts, did the School District |
| 17 | Q I did. And I asked you to look at headnote, | 17 take into account that 12 years before that, the Ninth |
| 18 | or the paragraph that's marked asterisked 7. | 18 Circuit had held that discrimination against |
| 19 | A Okay. So that's not a headnote. Asterisk 7 | 19 transgender people was considered discrimination under |
| 20 | means, I believe, the page number of the actual | 20 Title VII, and that three weeks before the May |
| 21 | decision. So are you asking me to look at asterisk 7, | 21 decision, determination by the Nevada Equal Rights |
| 22 | the paragraph that's marked -- | 22 Commission, that the EEOC had issued a landmark |
| 23 | Q Yes, please. | 23 decision in this very Macy case, which cited that Ninth |
| 24 | A Okay. | 24 Circuit decision, and said that employers should not be |
| 25 | Q It's the first full paragraph on this page. | 25 discriminating against transgender employees? |
| | Page 303 | Page 305 |
| 1 | A I'm there. | 1 MR. YOUNG: Standing objection. |
| 2 | Q Would you read the first sentence? | 2 BY MS. ENGLAND: |
| 3 | A "When an employer discriminates against | 3 Q Did you find that out to prepare yourself here |
| 4 | someone because the person is transgender, the employee | 4 today? |
| 5 | [sic] has engaged in disparate treatment," quote, | 5 A The District was aware of the relevant case |
| 6 | "related to the sex of the victim," unquote. | 6 law in regard to the issue. |
| 7 | Q And you used the word the "employee." You | 7 Q And despite that relevant case law, which is a |
| 8 | meant the "employer" has engaged, right? | 8 Ninth Circuit decision, the School District continued |
| 9 | A Yes. That's what it says, "The employer has | 9 its illegal prohibition against Brad Roberts which |
| 10 | engaged." | 10 prohibited him from using male restroom facilities; |
| 11 | Q Do you see the citation it gives there? | 11 isn't that correct? |
| 12 | A Yes. | 12 MR. YOUNG: Standing objection. |
| 13 | Q That's the Schwenk case? | 13 Argumentative. You can answer. |
| 14 | A Yes. | 14 THE WITNESS: No, we do not concede that what |
| 15 | Q And if you look on the previous page, page 4, | 15 we -- the restriction was illegal. We were aware of |
| 16 | it gives you the cite. You know how to read a cite, | 16 relevant case law, and took a position. |
| 17 | Mr. Okazaki? | 17 BY MS. ENGLAND: |
| 18 | A I do. | 18 Q And then if you'll look on page 5 again, it's |
| 19 | Q Look at the third full paragraph down. Do you | 19 referring to the Schwenk versus Hartford decision, |
| 20 | see the cite for Schwenk? | 20 which is the 2000 Ninth Circuit decision. If you'll |
| 21 | A I do. | 21 look at the paragraph that begins, "The court relied on |
| 22 | Q That is a Ninth Circuit 2000 decision, is it | 22 Price Waterhouse" -- |
| 23 | not? | 23 A Okay. |
| 24 | A Yes. | 24 Q Are you at that paragraph? |
| 25 | Q And that is a decision by the Ninth Circuit | 25 A I am. |

| | Page 306 | Page 308 |
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| 1 | Q Would you read the second sentence of that | 1 MR. YOUNG: Standing objection. |
| 2 | paragraph? | 2 THE WITNESS: Our position would be Goins. |
| 3 | A "Accordingly, the Ninth Circuit concluded | 3 BY MS. ENGLAND: |
| 4 | discrimination against transgender families [sic], | 4 Q Okay. We're done with that exhibit. |
| 5 | i.e." -- | 5 In April of 2012, was Littler Mendelson one of |
| 6 | Q Does that say "females" or "families"? | 6 the regular advisors to the Clark County School |
| 7 | A Oh, I'm sorry. "Females." | 7 District legal department -- |
| 8 | Q Would you please start again, and to the best | 8 MR. YOUNG: Standing objection. |
| 9 | of your ability, would you actually read the sentence | 9 BY MS. ENGLAND: |
| 10 | accurately? | 10 Q -- and one of your regular counsel? |
| 11 | A Okay. | 11 A Yes, they were one of our regular counsel, |
| 12 | "Accordingly, the Ninth Circuit concluded | 12 outside counsel. |
| 13 | discrimination again transgender females, i.e.," quote, | 13 MS. ENGLAND: We'll have this marked as 34. |
| 14 | "as anatomical males whose outward behavior and inward | 14 (Exhibit 34 marked) |
| 15 | identity," brackets, "do," closed brackets, "not meet | 15 BY MS. ENGLAND: |
| 16 | social definitions of masculinity," unquote, dash, "is | 16 Q In preparing for your deposition here today as |
| 17 | actionable discrimination," quote, "because of sex," | 17 the Clark County School District 30(b)(6) Designee on |
| 18 | unquote. | 18 what actions the School District took in response to |
| 19 | Q So the EEOC has issued a decision which | 19 the Nevada Equal Rights Commission determination, first |
| 20 | pre-dates the Nevada Equal Rights Commission which says | 20 you told us that they did not take into account or |
| 21 | that what the School District is doing to Brad Roberts | 21 implement the holding of the Macy versus Holder |
| 22 | is -- may be considered discrimination under federal | 22 decision issued by the EEOC in April; isn't that |
| 23 | law under Title VII; isn't that right? | 23 correct? |
| 24 | MR. YOUNG: I'll object. The document speaks | 24 A No, I did not say that. |
| 25 | for itself. And the legal ramifications of the | 25 Q And as a result of the Macy decision, the |
| | Page 307 | Page 309 |
| 1 | document are subject to argument. | 1 Clark County School District did not cease its ban on |
| 2 | THE WITNESS: Yes, we don't agree that our | 2 Brad Roberts which prohibited him from using male |
| 3 | restriction on Officer Roberts was unlawful | 3 restroom facilities at Clark County School District, |
| 4 | discrimination. | 4 did it? |
| 5 | BY MS. ENGLAND: | 5 MR. YOUNG: Standing objection. |
| 6 | Q And you don't agree that it was unlawful | 6 THE WITNESS: No, the Macy case did not change |
| 7 | discrimination under Title VII? | 7 the District's position in regard to Officer Roberts. |
| 8 | A Correct. | 8 BY MS. ENGLAND: |
| 9 | Q And you base that on -- not on the Macy case | 9 Q And even though the Macy decision by the EEOC |
| 10 | that the EEOC has held out, and not on the Ninth | 10 was issued, it said, "Discrimination against |
| 11 | Circuit decision in the Schwenk case, but rather based | 11 transgender people is discrimination under Title VII," |
| 12 | on the dismissal of a Title IX case and the Goins | 12 the School District did not change its position insofar |
| 13 | Minnesota case? | 13 as Brad Roberts was concerned in May of 2012; isn't |
| 14 | A Based on all relevant legal authority. | 14 that correct? |
| 15 | Q So which is more authoritative, the EEOC's | 15 A The District did not change its position in |
| 16 | Macy decision, or the Goins decision? | 16 regard to Officer Roberts as a result of Macy. |
| 17 | A It would depend on the substance of the | 17 Q The District in May of 2012, despite the Macy |
| 18 | case -- | 18 decision, continued its same position and practice |
| 19 | Q In this circumstance. | 19 against Brad Roberts for another five months, did they |
| 20 | A -- the rulings -- | 20 not? |
| 21 | Q In this circumstance, in this circumstance, in | 21 A Yes. |
| 22 | May of 2012, which is the more authoritative case, the | 22 Q And Littler Mendelson was one of the School |
| 23 | Macy decision by the EEOC issued on April 20th, 2012, | 23 District's contracted counsel to provide legal advice |
| 24 | or the Goins decision issued by the Minnesota Supreme | 24 in defense of cases in April and May of 2012? |
| 25 | Court in 2011? | 25 A Yes. |

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| <p>1 Q And do you know if anyone at the School 2 District looked at Littler Mendelson's website in that 3 time frame to gain any guidance about what the School 4 District's reaction ought to be in light of the Macy 5 decision by the EEOC?</p> <p>6 MR. YOUNG: Standing objection.</p> <p>7 THE WITNESS: I'm not aware if they have -- 8 they did or not.</p> <p>9 BY MS. ENGLAND:</p> <p>10 Q And have you ever seen this part of Littler 11 Mendelson's website which gives employers advice in 12 April of 2012 about what an employer ought to be doing 13 in order to -- because of the issuance of the EEOC's 14 decision in the Macy case?</p> <p>15 MR. YOUNG: Standing objection.</p> <p>16 THE WITNESS: Personally, I don't know if I 17 ever looked at Littler Mendelson's website. I've seen 18 their publications, and I've seen their guidance 19 documents.</p> <p>20 BY MS. ENGLAND:</p> <p>21 Q And so in preparing yourself here today, did 22 you find out whether Scott Greenberg, who was making 23 these decisions on behalf of the School District, if he 24 ever went and got outside guidance about the 25 implications of the Macy decision?</p> | <p>1 BY MS. ENGLAND: 2 Q And he did not tell you how the District's 3 position could somehow in any way, shape, or form be 4 squared with the Macy decision? He only cited to you 5 case authority that supported the District's position?</p> <p>6 MR. YOUNG: Standing objection.</p> <p>7 BY MS. ENGLAND:</p> <p>8 Q Isn't that correct?</p> <p>9 MR. YOUNG: Standing objection.</p> <p>10 THE WITNESS: No, I don't think he -- I don't 11 recall him listing any specific case. But he did say 12 that there's -- that in his review of legal authority 13 out there, that, you know, that relevant legal 14 authority supported the District's position.</p> <p>15 BY MS. ENGLAND:</p> <p>16 Q And the only relevant legal authority that he 17 told you about was legal authority that concluded the 18 same way the District, or supported the District's 19 decision, that Brad Roberts would be banned from using 20 male restroom facilities until he had sex change 21 operations and provided proof to the department?</p> <p>22 A The only legal authority he specifically 23 advised me of was the legal authority that he 24 referenced in his letter to the Nevada Equal Rights 25 Commission.</p> |
| Page 311 | Page 313 |
| <p>1 A No.</p> <p>2 Q Did you ever ask Mr. Greenberg if he went and 3 got guidance from someone other than the Goins decision 4 and the Jane Doe Title IX decision?</p> <p>5 MR. YOUNG: Standing objection.</p> <p>6 THE WITNESS: No, I didn't ask him whether he 7 had gone outside. He told me that it was his review of 8 the legal authority that was the basis for the 9 District's position.</p> <p>10 BY MS. ENGLAND:</p> <p>11 Q And the only legal authority he told you about 12 was the Title IX decision in the Jane Doe versus School 13 District case and the Goins decision? He didn't tell 14 you about the Macy decision; he didn't tell you about 15 the Littler decision; he didn't tell you about the 16 Schwenk Ninth Circuit decision; did he?</p> <p>17 MR. YOUNG: Objection. Argumentative. 18 Standing objection.</p> <p>19 THE WITNESS: Yeah -- no -- he didn't -- he 20 didn't cite cases that did not support our position. 21 He advised me that he was aware of the legal authority 22 that was relevant to the issue, and that the District's 23 position was that the prohibition imposed upon Officer 24 Roberts in regard to bathroom use was not unlawful 25 discrimination.</p> | <p>1 Q And that's the Goins and the Title IX case?</p> <p>2 A And the OSHA regulations, and the cases 3 indicating that Nevada has adopted those regulations.</p> <p>4 Q And it does not include the Macy decision?</p> <p>5 Does not include the Schwenk decision?</p> <p>6 MR. YOUNG: Argumentative. Asked and 7 answered.</p> <p>8 THE WITNESS: No.</p> <p>9 BY MS. ENGLAND:</p> <p>10 Q No, it does not; isn't that correct?</p> <p>11 A Yeah, I told you that he did not advise me of 12 any specific case that did --</p> <p>13 Q Went the other way?</p> <p>14 A -- that did not support the School District's 15 position. He told me he was -- he had reviewed the 16 relevant case law. So he had reviewed all relevant 17 case law.</p> <p>18 Q Did he review the Macy decision?</p> <p>19 A I didn't ask him specifically whether he did 20 or not.</p> <p>21 Q You said he reviewed all relevant case law. 22 Did he review the Macy decision --</p> <p>23 A I don't know.</p> <p>24 Q -- that came out in April of 2012?</p> <p>25 A I don't know.</p> |

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| 1 | MR. YOUNG: Standing objection. | consideration all of the relevant factors and issues |
| 2 | BY MS. ENGLAND: | involved in gender identity and AB 211's inclusion of |
| 3 | Q Fair enough. | that status as a protected status or class, and revised |
| 4 | Would you look at the second page of | its policy and regulation accordingly. |
| 5 | Exhibit 34? | Q And then would you read the sentence that |
| 6 | In April 2012, as a result of the Macy | begins with "because"? |
| 7 | decision, Littler Mendelson, Clark County School | A "Because not all transgender people elect to |
| 8 | District's Defense Counsel, provided this sort of | have sex-reassignment surgery, employers should apply |
| 9 | information on its website that is printed here today. | their policies and procedures equally to all |
| 10 | So I'll ask you to read the paragraph that starts with | transgender employees, regardless of surgical status." |
| 11 | "because." It's about mid-page. | Q And at that point in time, in April and May of |
| 12 | A I don't see a paragraph that starts with | 2012, Clark County School District was still |
| 13 | "because." Second page, you asked me to look at? | prohibiting Brad Roberts from using male restroom |
| 14 | Q I did. It's right below the last dotted | facilities at Clark County School District facilities, |
| 15 | bullet. Look at the last bullet that says, quote -- | weren't they? |
| 16 | A You're on the third page. | MR. YOUNG: Standing objection. |
| 17 | Q Oh, sorry. Okay. Third page. You see the | Argumentative. |
| 18 | bullets? | THE WITNESS: Yes. |
| 19 | A I do. | BY MS. ENGLAND: |
| 20 | Q Would you read -- this says that, "As a | Q And if, as you instructed him, in November of |
| 21 | result, both public and private employers should review | 2011, if Brad Roberts had provided the School District |
| 22 | and consider revising their policies and practices to | with medical documentation that he had had sex change |
| 23 | confirm to the EEOC's decision in Macy. The policies | operation, he would have then been permitted to use |
| 24 | and procedures that should be reviewed include, but are | male restroom facilities at School District properties? |
| 25 | not limited to" -- the first bullet is, | MR. YOUNG: Standing objection. |
| | Page 315 | Page 317 |
| 1 | "Non-discrimination, harassment, and EEO policies." Do | THE WITNESS: Yes. |
| 2 | you see that? | BY MS. ENGLAND: |
| 3 | A Yes. | Q And because he had failed to do so, he was not |
| 4 | Q And then the last bullet that Littler | permitted to use male restroom facilities at Clark |
| 5 | Mendelson is telling the public, and especially | County School District facilities? |
| 6 | employers that they should be looking at is what? | A Yes. |
| 7 | A The last bullet says, "Policies governing the | Q And he was forced to use restroom facilities |
| 8 | use of restrooms, locker rooms, and other | that were outside the District property? |
| 9 | gender-specific facilities." | MR. YOUNG: Standing objection. |
| 10 | Q And as of April and May of 2012, Clark County | THE WITNESS: No. |
| 11 | School District has not done it; isn't that correct? | BY MS. ENGLAND: |
| 12 | MR. YOUNG: Standing objection. | Q Well, I guess his alternative was to never |
| 13 | THE WITNESS: No, I -- we reviewed the policy | urinate or defecate all day long during his eight-hour |
| 14 | and regulation relating to -- we reviewed Policy 4110 | shift? |
| 15 | and Regulation 4110 and actually revised them. | MR. YOUNG: Standing objection. |
| 16 | BY MS. ENGLAND: | BY MS. ENGLAND: |
| 17 | Q That has nothing to do with restrooms, locker | Q So he could either choose not to engage in |
| 18 | rooms, or gender-specific facilities, does it? | those bodily functions throughout his shift, or he was |
| 19 | MR. YOUNG: That wasn't what you limited your | forced to use facilities outside the District property; |
| 20 | question to, Kathy. You talked about | isn't that correct? |
| 21 | non-discrimination, harassment, and EEOC policies | MR. YOUNG: Standing objection. |
| 22 | first. | Argumentative. Mischaracterizes facts in evidence. |
| 23 | BY MS. ENGLAND: | You can answer. |
| 24 | Q I'm talking about the last bulleted point. | THE WITNESS: No. |
| 25 | A No, I -- we -- the District took into | ///// |

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| 1 | BY MS. ENGLAND: 2 Q And this guidance or instruction to employers 3 from Littler Mendelson, the School District's Defense 4 Counsel, is directly contradictory to what practice the 5 School District was then imposing on Brad Roberts, that 6 is, they were treating him differently because he had 7 not had sex reassignment surgery or would refuse to 8 disclose it? | 1 District's position in June of 2012 -- 2 MR. YOUNG: July? 3 MS. ENGLAND: No. Excuse me. I'll start the 4 question again. 5 BY MS. ENGLAND: |
| 9 | MR. YOUNG: Standing objection. | 6 Q Is it your understanding that the District's 7 position in June of 2012 was that Brad Roberts was 8 supposed to be using the women's restroom, which is 9 what the District understood was the gender that 10 matched his anatomical gender? |
| 10 | BY MS. ENGLAND: 11 Q Isn't that correct? 12 A No. I don't agree. 13 Q So you knew that Brad Roberts had not 14 disclosed whether or not he had had sex reassignment 15 surgery and, therefore, he was not permitted to use 16 male restrooms; right? | 11 A No. 12 Q But the ban, that is the School District's 13 practice that banned Brad Roberts from using men's room 14 facilities at Clark County School District was still in 15 effect in June of 2012? |
| 17 | A Yes. 18 Q We're done with that. Go to Exhibit -- 19 MR. YOUNG: It's approximately noon. Were you 20 planning on breaking for lunch? 21 MS. ENGLAND: Yes, at 12:30. 22 MR. YOUNG: Okay. Thank you for letting me 23 know. 24 MS. ENGLAND: Oh, sorry. 25 Here's 35. | 16 A Yes. 17 Q And was it your understanding that the School 18 District came to the conciliation and said that was 19 their position, they weren't going to change it, and 20 they weren't going to lift the ban? 21 A Yes. 22 Q And so he was not allowed to use the women's 23 room because he looks like a man; right? 24 A He was not going to be required to use the 25 women's restroom. |
| | Page 319 | Page 321 |
| 1 | (Exhibit 35 marked). | 1 Q So he was free -- looking as an adult male, he 2 was free to go into the women's restrooms at Clark 3 County School District facilities? Are you saying 4 that? |
| 2 | BY MS. ENGLAND: 3 Q Exhibit 35, which is a July 16, 2012, letter 4 from the Nevada Equal Rights Commission Administrator 5 to Mr. Greenberg, is this one of the documents that you 6 reviewed to prepare to be the 30(b)(6) Designee today? 7 A Yes. 8 Q And in this letter, Ms. Chinchilla, the 9 administrator, confirms that, to Mr. Greenberg, that, 10 "As you know, we held a conciliation on June 19, 2012, 11 in the above-referenced case which was unsuccessful." 12 Is that what you understand the state of 13 events was as of June 2012, from the School District's 14 perspective? | 5 A Sure. 6 Q What could go wrong? 7 A I don't understand. 8 MR. YOUNG: Objection. Calls for speculation. 9 Also, standing objection. Outside the scope. |
| 15 | MR. YOUNG: July, you mean? | 10 BY MS. ENGLAND: 11 Q Did the School District take into account what 12 might go wrong if Brad Roberts, who looks like a male, 13 uses women's restroom facilities? |
| 16 | BY MS. ENGLAND: 17 Q Excuse me. 18 A Yes. | 14 MR. YOUNG: Standing objection. 15 BY MS. ENGLAND: 16 Q And if so, who took it into account, and what 17 did they conclude? |
| 19 | Q What was the position which was articulated at 20 the conciliation on June 19, 2012, by the District, and 21 by whom was it espoused? | 18 MR. YOUNG: Standing objection. 19 THE WITNESS: Yes, I believe we took into -- 20 well, first of all, the School District's instructions 21 to Officer Roberts was that he would not be required to 22 use the female-identified restroom. We were fully 23 aware that if, with his male appearance, if he used 24 that, there could be some concerns by other occupants 25 of the restroom that a male was using the |
| 22 | A That it was not unlawful discrimination to 23 require Brad, Officer Roberts, to use the restroom of 24 the gender that he matched anatomically. | |
| 25 | Q And so are you saying that it was the | |

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| 1 | female-identified restroom. And then we would have to | 1 issued its determination back in May of 2012, did the |
| 2 | explain or deal with those people as to that, you know, | 2 District announce that determination, and that it had |
| 3 | that individual is not doing anything wrong or | 3 been found to believe -- that the Nevada Equal Rights |
| 4 | inappropriate by doing that. | 4 Commission believed it was committing illegal |
| 5 | BY MS. ENGLAND: | 5 discrimination? |
| 6 | Q So in June of 2012 at the conciliation | 6 A Announce to who? |
| 7 | meeting, the School District did not change in any way, | 7 Q The School District -- |
| 8 | shape, or form its practice and the ban on Brad Roberts | 8 A No. |
| 9 | that was then in existence? | 9 Q -- employees? |
| 10 | A No. | 10 A No. |
| 11 | Q That's "no," they didn't change? | 11 Q Did someone make a decision that the people |
| 12 | A No, they did not change. | 12 involved -- such as yourself, Captain York, Lieutenant |
| 13 | Q So whatever the ban was, as confusing as | 13 Young, Chief Ketsaa -- that they would not be told that |
| 14 | apparently now it is, whatever the ban was, it was to | 14 the policy and the practice that they were enforcing |
| 15 | continue? | 15 against Brad Roberts had been found to be illegal by |
| 16 | A Yeah, I don't agree that it was necessarily | 16 the Nevada Equal Rights Commission? |
| 17 | confusing, but, yes, what the District's position as | 17 MR. YOUNG: Standing objection. |
| 18 | communicated to Officer Roberts back in November of | 18 Mischaracterizes the nature of the determination. You |
| 19 | 2011 -- | 19 can answer. |
| 20 | Q By you? | 20 THE WITNESS: There was no decision not to |
| 21 | A -- yes, continued through June of 2012. | 21 inform somebody. |
| 22 | Q And this is despite now the Macy decision and | 22 BY MS. ENGLAND: |
| 23 | the finding by the Nevada Equal Rights Commission that | 23 Q Did you discuss this with Mr. Greenberg to be |
| 24 | it was illegal under Nevada law as well? | 24 prepared to speak here today? |
| 25 | MR. YOUNG: Objection. Argumentative. And | 25 MR. YOUNG: Standing objection. |
| | Page 323 | Page 325 |
| 1 | standing objection. | 1 BY MS. ENGLAND: |
| 2 | THE WITNESS: I don't agree that those -- | 2 Q Are you just espousing this? |
| 3 | that's what those cases say, but -- or that's what | 3 A I am aware that we did not -- the Clark County |
| 4 | those authorities say, but, yes, despite the Macy | 4 School District did not announce to anybody that -- |
| 5 | decision and the Nevada Equal Rights determination, the | 5 announce the NERC determination -- |
| 6 | District's position remained the same. | 6 Q I already asked you that question, and you |
| 7 | Q Okay. We're done with that. We'll have | 7 already said -- |
| 8 | Exhibit 37. | 8 A Let me finish. Let me finish. |
| 9 | (Exhibit 37 marked). | 9 MS. ENGLAND: No -- |
| 10 | MS. ENGLAND: Please put in the record that 36 | 10 MR. YOUNG: Go ahead and finish. |
| 11 | is blank. That way it's accounted for. | 11 MS. ENGLAND: No, Mr. Okazaki. You need to -- |
| 12 | BY MS. ENGLAND: | 12 MR. YOUNG: Go ahead and speak over her. |
| 13 | Q Mr. Okazaki, when did you first see the notice | 13 THE WITNESS: Yes, I need to answer the |
| 14 | by the Nevada Equal Rights Commission to the Clark | 14 question. |
| 15 | County School District in which the NERC notified the | 15 BY MS. ENGLAND: |
| 16 | District that it was going to conduct a public hearing | 16 Q Mr. Okazaki -- |
| 17 | on the discrimination which the Nevada Equal Rights | 17 A Your question was -- |
| 18 | Commission believed the School District was committing | 18 Q -- my question was: Who made the decision, |
| 19 | against Officer Roberts? | 19 not -- |
| 20 | A In the same meeting with Scott Greenberg and | 20 A So my answer was not that there was no |
| 21 | legal counsel a few days before the last deposition. | 21 decision to not announce NERC's determination. I'm |
| 22 | Q So you did not see this notice until June of | 22 aware that there was no announcement of the |
| 23 | 2016? | 23 determination. And so what I'm saying is that the |
| 24 | A Correct. | 24 people involved -- Scott Greenberg, Tom Rodriguez, the |
| 25 | Q Now, when the Nevada Equal Rights Commission | 25 superintendent -- who made the decision on how to |

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| <p>1 respond to the determination did not make an 2 announcement, or did not make a decision to announce. 3 I don't think there was a decision to not announce. A 4 decision either way was not made.</p> <p>5 Q And who made the decision to not make a 6 decision?</p> <p>7 A Scott Greenberg, Tom Rodriguez -- and 8 actually, I don't know if the superintendent was -- did 9 not -- there's no -- the superintendent was not 10 involved in any decision or non-decision to announce 11 NERC's determination to anybody.</p> <p>12 Q Okay. So tell us about your conversation in 13 the last two weeks when you first found out that there 14 was a Nevada Equal Rights Commission determination, and 15 you were preparing yourself to come here today as the 16 30(b)(6) Designee, tell us what Scott Greenberg told 17 you about the decision to not announce that the Nevada 18 Equal Rights Commission had found against the School 19 District and that its practice, its ban on Brad Roberts 20 was illegal.</p> <p>21 MR. YOUNG: Standing objection. Also object 22 that the question mischaracterizes the effect and 23 nature of the determination. You can answer.</p> <p>24 THE WITNESS: I did not say that there was a 25 decision not to announce. I specifically said that no</p> | <p>1 with the term "legal documentation." I believe he was 2 told that unless he provides evidence that he had 3 changed his biology, he would not be allowed to use the 4 male restroom.</p> <p>5 Q And then the Nevada Equal Rights Commission 6 goes on to base its Notice of Administrative Hearing of 7 the practices that it considers illegal to say -- and I 8 quote -- "A second meeting was held on November 22, 9 2011, during which CCSD" -- you need to stay on the 10 first page because that's where I am -- "during which 11 CCSD rejected Roberts' request to use the male restroom 12 because he was still biologically female and told him 13 that he could not use the male restroom until he had a 14 genital," open paren, "sex change," end paren, 15 "procedure."</p> <p>16 That is an accurate statement of the CCSD's 17 position?</p> <p>18 A Yes.</p> <p>19 Q And that was the position which you 20 articulated to Brad Roberts on November 22nd?</p> <p>21 A Yes.</p> <p>22 Q And that was the position of the department 23 unchanged in June of 2012?</p> <p>24 A Yes.</p> <p>25 Q And it was the position as well unchanged in</p> |
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| <p>1 decision was made one way or the other.</p> <p>2 BY MS. ENGLAND:</p> <p>3 Q My question was: Tell us what Mr. Greenberg 4 told you that allows you to come here today and testify 5 to what you just said as the 30(b)(6) Designee.</p> <p>6 A Because I asked him, "What did the District do 7 in response to the determination?" And he said, "The 8 only thing that we did was write the responsive 9 letter."</p> <p>10 Q Okay. So now turning to Exhibit 37, do you 11 have that in front of you?</p> <p>12 A I do.</p> <p>13 Q You said the first time you saw this was two 14 weeks ago in preparing for your deposition?</p> <p>15 A Yes.</p> <p>16 Q And this says, "Statement of matters 17 asserted," is that -- I'll go down to line 24 -- "At 18 the November 14, 2011, meeting, Roberts was told that 19 he could not use the male restroom until he provided 20 legal documentation that he changed his gender from 21 female to male."</p> <p>22 That is an accurate statement of what the 23 School District told the Nevada Equal Rights Commission 24 what the ban was comprised of; isn't that correct?</p> <p>25 A I don't know if it -- I don't -- I can't agree</p> | <p>1 September of 2012 when this notice was issued?</p> <p>2 A Yes.</p> <p>3 Q And were you -- then it goes on to say, on the 4 second page:</p> <p>5 "After an investigation, the Commission's 6 administrator issued a determination on May 3, 2012, 7 that probable cause supported the change of 8 discrimination based on gender identity or expression. 9 CCSD's policy" -- you're saying it wasn't a policy, it 10 was just a position, right?</p> <p>11 A Correct.</p> <p>12 Q -- "requiring Roberts to prove his conformity 13 with CCSD's expectation regarding the male anatomy in 14 order to use the men's bathrooms violated Nevada's 15 anti-discrimination law."</p> <p>16 Do you see that?</p> <p>17 A I do.</p> <p>18 Q And the School District didn't agree with 19 that?</p> <p>20 A Correct.</p> <p>21 Q And now it is here four months later 22 continuing to do what the NERC has said the illegal 23 under Nevada law; right?</p> <p>24 A Yes.</p> <p>25 MR. YOUNG: Objection. Argumentative.</p> |

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| 1 | BY MS. ENGLAND: | 1 MS. ENGLAND: What time is it? |
| 2 | Q And additionally, it is doing what the EEOC | 2 THE REPORTER: 1:10. |
| 3 | has declared is illegal under federal law? | 3 BY MS. ENGLAND: |
| 4 | A No. | 4 Q Mr. Okazaki, you recognize and accept that |
| 5 | Q And CCSD's position was that if Roberts showed | 5 you're still under the oath that you took at the |
| 6 | that he had a penis, then he would be allowed to use | 6 beginning of today? |
| 7 | the men's restroom? | 7 A Yes. |
| 8 | MR. YOUNG: Objection. Mischaracterizes the | 8 Q Great. |
| 9 | facts in evidence. You can answer. It's | 9 We'll now move on to Subject No. 6, which is: |
| 10 | argumentative, also. | 10 "CCSD's decision to change the |
| 11 | THE WITNESS: I'm not -- yeah, I -- we never | 11 October-November 2011 restroom policy announced and |
| 12 | used the word "penis," and I'm only saying that because | 12 imposed on Plaintiff, and the reason for the policy |
| 13 | I'm not sure what constitutes male anatomy. And so we | 13 change, the participation of all persons involved in |
| 14 | would just rely on whatever documentation from a | 14 the decision to change the policy, the wording, |
| 15 | medical provider, you know, the medical documentation | 15 content, complication, dissemination, implementation, |
| 16 | indicating that they were anatomically male. That's | 16 and enforcement of the policy, and the decision of how |
| 17 | all we would have required. That's all we needed. | 17 and when to communicate the new policy to Plaintiff and |
| 18 | BY MS. ENGLAND: | 18 why." |
| 19 | Q Nonetheless, in September of 2012, the School | 19 Are you prepared to be the CCSD Designee on |
| 20 | District's position at odds with declared federal law | 20 that subject? |
| 21 | by the EEOC, and declared Nevada law declared by the | 21 A Yes. |
| 22 | Nevada Equal Rights Commission, was that Brad Roberts | 22 Q You were not personally involved in those |
| 23 | had to show having male anatomy in order to use the | 23 matters back in the 2011 time frame, were you? |
| 24 | men's room at the School District facilities? | 24 A No. |
| 25 | MR. YOUNG: Standing objection. | 25 Q In fact, it was Mr. Greenberg, was it not, |
| | Page 331 | Page 333 |
| 1 | Argumentative. You can answer. | 1 who, on behalf of the Clark County School District |
| 2 | THE WITNESS: Yeah, without agreeing to the | 2 in-house legal counsel who was involved in those |
| 3 | preface of that that it's in contrary to EEOC law, it's | 3 matters from your office? |
| 4 | definitely contrary to NERC's determination, yes, | 4 A Yes. |
| 5 | CCSD's position was that Officer Roberts was not going | 5 Q And you have indicated that the policy that's |
| 6 | 6 to be allowed to use the male restroom until his | 6 referred to here is not actually a policy, it was a |
| 7 | 7 anatomy matched that gender. | 7 position? |
| 8 | BY MS. ENGLAND: | 8 A Correct. |
| 9 | Q And what do you know about Officer Roberts' | 9 Q You used the term "policy" as a term of art in |
| 10 | 10 anatomy today? | 10 the School District lingo, which is, a policy is |
| 11 | MR. YOUNG: Objection. Standing objection. | 11 something which is passed by the School Board and |
| 12 | THE WITNESS: I do not know that -- I do not | 12 issued as a, quote, unquote, policy? |
| 13 | 13 know that his gender, his anatomy has changed. | 13 A Yes. |
| 14 | BY MS. ENGLAND: | 14 Q But in preparing yourself today, you |
| 15 | Q And he's allowed to use the men's restroom, is | 15 understood that that term was used in its more |
| 16 | 16 he not? | 16 layperson's sense, which was the policy that you're |
| 17 | A Yes. | 17 here prepared to testify about, or which is the subject |
| 18 | Q And he's been allowed to use the men's | 18 matter of No. 6 is the policy which banned Officer Brad |
| 19 | 19 restroom for over three years? | 19 Roberts from using, and only Brad Roberts, from using |
| 20 | A Approximately, yes. | 20 male restroom facilities at Clark County School |
| 21 | MS. ENGLAND: I think this would be a good | 21 District facilities for the year October 2011 to |
| 22 | time to take a quick lunch break. Then we'll go on to | 22 October 2012? |
| 23 | 23 No. 6. | 23 A Yes. |
| 24 | (Lunch recess taken from 12:15 to 1:10 p.m.) | 24 Q And so we should call it the District's |
| 25 | 25 \\\ | 25 position, as you've articulated it; right? |

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| 1 | A Yes. | Q Did you ask him in order to be prepared here |
| 2 | Q So who made the decision to change the | today to testify about Subject No. 6? |
| 3 | District's position which banned Officer Brad Roberts, | A No. |
| 4 | and had banned Officer Roberts from using male restroom | Q Did you and Mr. Greenberg discuss this notice |
| 5 | facilities at Clark County School District from October | within the last two weeks as you were preparing to be |
| 6 | 2011 until the ban was lifted in October 2012? | the Subject No. 6 Designee? |
| 7 | A The people involved in that decision was Scott | A Yes. |
| 8 | Greenberg, Carlos McDade, who was the general counsel, | Q Did you have it in front of you? |
| 9 | and I believe -- I'm trying to think -- so | A Yes. |
| 10 | Superintendent of Instruction, which I think -- I | Q So did you ask Mr. Greenberg, "So if they |
| 11 | believe it was Dr. Barton. | mailed it, Scott, when did you get it, and when did you |
| 12 | Q Doctor whom? | start formulating the idea that the District needed to |
| 13 | A Barton. | change its position?" |
| 14 | Q He or she was the associate superintendent for | A No. |
| 15 | what? | Q Was the District -- did the District hope to |
| 16 | A For the Instruction Unit. | avoid a public hearing by changing its policy? |
| 17 | Q Who initiated the idea that the District's | A Yes. |
| 18 | position, which was the year-long prohibition for Brad | Q And did you and Mr. Greenberg discuss how |
| 19 | Roberts from using any male restroom facilities, who | unusual it was that the Nevada Equal Rights Commission |
| 20 | initiated or started the possibility that it was going | was, in fact, even holding a public hearing? |
| 21 | to be changed? | A Yes, yes. It was -- we considered it to be |
| 22 | A Scott Greenberg. | unusual. We considered it to be inappropriate. We |
| 23 | Q When did Mr. Greenberg do that? | filed a motion to dismiss, and communicated with the |
| 24 | A After receipt of the notice of public hearing | Attorney General's Office. But, yes, so we thought it |
| 25 | from the Nevada Equal Rights Commission. | was an unusual step. |
| | Page 335 | Page 337 |
| 1 | Q Did you discuss this with Mr. Greenberg | Q The way that this is styled, it is the Nevada |
| 2 | recently to prepare yourself to come here today and | Equal Rights Commission versus -- it's the |
| 3 | speak on No. 6? | Administrator versus the School District. It's not the |
| 4 | A Yes. | charging party, is it? |
| 5 | Q What did Mr. Greenberg tell you when it was | A Correct. |
| 6 | that he decided that the policy should be -- the | Q So this is the Nevada Equal Rights Commission |
| 7 | position should be changed? | bringing Clark County School District to task for what |
| 8 | A That upon receipt of the notice of public | the Nevada Equal Rights Commission considers an illegal |
| 9 | hearing, and filing the motion to dismiss, and getting | position as it is being enforced against Brad Roberts? |
| 10 | the response, that they were not going to consider the | MR. YOUNG: I'll object. Lack of foundation |
| 11 | motion, and that it was going to be forward with a | to the extent it calls for speculation as to what that |
| 12 | public hearing, that was the -- that was what triggered | document means. |
| 13 | the ultimate decision to change the position. | THE WITNESS: Yes, I believe this stems from |
| 14 | Q Well, if you look back at Exhibit 37, which I | the Nevada Equal Rights determination that the |
| 15 | believe might be on the very top -- | District's restrictions on Officer Roberts constituted |
| 16 | A Okay. | unlawful discrimination, and then Clark County School |
| 17 | Q The Deputy Attorney General who mailed this | District's position that it was going to stay with its |
| 18 | out indicated that it was mailed on September 6th, | position. And so they were going to -- but my |
| 19 | 2012. Do you see that -- | understanding of the public hearing was that they were |
| 20 | A I do. | going to go to a public hearing to decide whether it |
| 21 | Q -- on the last page, EEOC 012? | should -- the underlying case and concerns should go to |
| 22 | A Yes. | the public hearing, or should it go to a Hearing |
| 23 | Q When did Mr. Greenberg receive this since it | Officer. But, yes, it was all based on the idea that |
| 24 | is addressed to him? | the Nevada Equal Rights Commission believed that the |
| 25 | A I did not have the specific date. | restriction reimposed on Officer Roberts was unlawful |

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| 1 | discrimination. | 1 THE WITNESS: I did not look at the minutes. |
| 2 | BY MS. ENGLAND: | 2 BY MS. ENGLAND: |
| 3 | Q The distinction you've made about whether this | 3 Q Did you not believe that that was appropriate |
| 4 | would go before the Commissioner or a Hearing Officer, | 4 and necessary for you to come here today and testify as |
| 5 | that was already decided by the Nevada Equal Rights | 5 the 30(b)(6) Designee? |
| 6 | Commission on July 31st, 2012, when the Commission | 6 A No. |
| 7 | itself voted to conduct a public hearing about what it | 7 Q Not important to you as -- is it as |
| 8 | considered to be the illegal discrimination being | 8 unimportant to you to make that preparation as it was |
| 9 | committed, then being committed by the Clark County | 9 for the Clark County School District? |
| 10 | School District. Did Mr. Greenberg tell you he | 10 MR. YOUNG: Objection. Argumentative. |
| 11 | attended that meeting and heard the decision of the | 11 THE WITNESS: I don't understand the question. |
| 12 | Commission to not go to a Hearing Officer, but that | 12 BY MS. ENGLAND: |
| 13 | this would be held before the Nevada Equal Rights | 13 Q What did Mr. Greenberg convey to you about the |
| 14 | Commission? | 14 likelihood that the Nevada Equal Rights Commission was |
| 15 | A Yes. | 15 going to vote and find again that the Clark County |
| 16 | Q Did Mr. Greenberg tell you that this is a | 16 School District was committing illegal discrimination? |
| 17 | matter of -- was a matter of great import to the Nevada | 17 MR. YOUNG: Objection to the question as to |
| 18 | Equal Rights Commission, which was demonstrated by the | 18 the use of the term "again." |
| 19 | fact that they're not sending us to a Hearing Officer, | 19 THE WITNESS: I don't think the District had |
| 20 | they're going the fifth largest school district in the | 20 any doubt that the Nevada Equal Rights Commission would |
| 21 | country to a public hearing because the Commission | 21 maintain its position on the issue. We talked about |
| 22 | claims that the school district is, in fact, still | 22 the fact that they were going to go to a public |
| 23 | committing illegal discrimination? Did you and | 23 hearing. So that's the information that I'm bringing |
| 24 | Mr. Greenberg discuss that recognition? | 24 on behalf of the District, that we understood they were |
| 25 | MR. YOUNG: Objection to the question to the | 25 going to go to a public hearing, we understood that |
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| 1 | extent that it's compound; and, number two, that it | 1 there would be no reason for them to change their |
| 2 | requires speculation on the witness' behalf as to what | 2 position on the issue. |
| 3 | the Nevada Equal Rights Commission was thinking. | 3 BY MS. ENGLAND: |
| 4 | If you can answer that question, go ahead. | 4 Q When you say that the School District |
| 5 | THE WITNESS: No. | 5 understood that there was no reason for the Commission |
| 6 | BY MS. ENGLAND: | 6 to change its position, does that mean that the School |
| 7 | Q Well, in your previous answer, you said | 7 District had no evidence to present at the upcoming |
| 8 | something about a Hearing Officer versus the | 8 public hearing which would show or sway the Commission |
| 9 | Commission. Who gave you that information? | 9 that they weren't committing illegal discrimination? |
| 10 | A It's in the notice. | 10 A No. |
| 11 | Q And did you and Mr. Greenberg discuss the fact | 11 Q What evidence did you find out from |
| 12 | that this issue was so important to the Nevada Equal | 12 Mr. Greenberg in preparing you to come here today -- |
| 13 | Rights Commission as demonstrated by the meeting | 13 what evidence was the School District going to present |
| 14 | Mr. Greenberg attended, that the Commission itself | 14 at this commission which would show that they were not |
| 15 | voted to conduct a hearing? | 15 committing illegal discrimination under Nevada law? |
| 16 | A We did not discuss your assertion that it was | 16 A We never came to a conclusion or a decision as |
| 17 | so important to the Nevada Equal Rights Commission. | 17 to what evidence or arguments we would present at the |
| 18 | Q Did you look at the minutes of the meeting on | 18 Nevada Equal Rights Commission public hearing. |
| 19 | July 31st of the Nevada Equal Rights Commission -- | 19 Q Well, in July and September, what evidence did |
| 20 | A No. | 20 the School District have that it intended to present at |
| 21 | Q -- so that you could see what the Nevada Equal | 21 the Nevada Equal Rights Commission hearing that would |
| 22 | Rights Commission said about why they were proceeding | 22 show that they were not discriminating against Brad |
| 23 | against the fifth largest school district in the | 23 Roberts? |
| 24 | country for illegal discrimination? | 24 MR. YOUNG: Asked and answered. |
| 25 | MR. YOUNG: Standing objection. | 25 THE WITNESS: We did not come to a decision as |

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| 1 | to what would be presented at that hearing. | 1 the District's position was and sent it to Officer |
| 2 | BY MS. ENGLAND: | 2 Roberts, did you? |
| 3 | Q I didn't ask you if you came to a decision | 3 A No. |
| 4 | about what would be presented. I said, what evidence | 4 Q So that enables you to come here today, for |
| 5 | did the School District have, not what -- | 5 example, this morning, and testify to a position, a |
| 6 | MR. YOUNG: You said what evidence does the | 6 part of that position which is completely at odds with |
| 7 | School District have that it intended to present at the | 7 what every other witness has testified to? |
| 8 | hearing, is the question that you asked? And he had | 8 MR. YOUNG: Objection. Argumentative. |
| 9 | already answered that question. | 9 THE WITNESS: No. |
| 10 | MS. ENGLAND: So, fine. | 10 BY MS. ENGLAND: |
| 11 | BY MS. ENGLAND: | 11 Q Did you purposefully not commit the position |
| 12 | Q In August of 2012, what evidence did the | 12 as you articulated it to Officer Roberts on November |
| 13 | School District have -- | 13 22nd, 2011, so that you would be able to argue it |
| 14 | MR. YOUNG: Standing objection. | 14 differently later on? |
| 15 | BY MS. ENGLAND: | 15 A No. |
| 16 | Q -- that it was not committing illegal Nevada | 16 MR. YOUNG: Objection. Argumentative. Go |
| 17 | discrimination? | 17 ahead and answer again. |
| 18 | MR. YOUNG: Standing objection. Asked and | 18 THE WITNESS: No. |
| 19 | answered. | 19 BY MS. ENGLAND: |
| 20 | THE WITNESS: The legal authority that we had | 20 Q And you never wrote down or took any notes in |
| 21 | always presented. | 21 any of the meetings that you attended that had to do |
| 22 | BY MS. ENGLAND: | 22 with Officer Roberts and this year-long ban of his use |
| 23 | Q Mr. Okazaki, you're a lawyer; right? | 23 of male restroom facilities at Clark County School |
| 24 | A Yes. | 24 District? |
| 25 | Q You know the difference between evidence and | 25 MR. YOUNG: Standing objection. |
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| 1 | authority? | 1 THE WITNESS: No. |
| 2 | A Sure. | 2 BY MS. ENGLAND: |
| 3 | Q So what evidence, what tangible evidence did | 3 Q So back to Subject No. 6: You said that -- |
| 4 | the School District have in August of 2012, not what | 4 did you have a discussion, did Mr. Greenberg tell you |
| 5 | legal authority, but what evidence as perhaps suggested | 5 who at the Instruction Unit he directed to create the |
| 6 | by that legal authority? | 6 new policy which was to come out? |
| 7 | MR. YOUNG: Standing objection. | 7 A No, there was no instructions to create a new |
| 8 | THE WITNESS: Evidence of what was stated to | 8 policy. |
| 9 | Officer Roberts what the position was, what was | 9 Q Well, how did -- there was no adult restroom |
| 10 | communicated to him. I think those would be the | 10 policy in September of 2012; isn't that right? |
| 11 | relevant facts relating to the issue. | 11 MR. YOUNG: Standing objection. |
| 12 | BY MS. ENGLAND: | 12 THE WITNESS: I don't understand the question. |
| 13 | Q My question was: What evidence? | 13 BY MS. ENGLAND: |
| 14 | A Yeah, those are all evidence -- we would have | 14 Q Sure. Let's take it in August of 2012, there |
| 15 | evidence of what was said in the meeting of November | 15 was no policy at the School District about adult |
| 16 | 22nd, what was communicated to him, what the position | 16 restroom use? |
| 17 | was, what his restrictions were. | 17 MR. YOUNG: Standing objection. |
| 18 | Q So it would be -- the evidence would be the | 18 THE WITNESS: A formal policy? No. |
| 19 | documents that have been presented and you've testified | 19 BY MS. ENGLAND: |
| 20 | about; right? | 20 Q And you're here on the subject of the new |
| 21 | A Some of them. | 21 policy that comes out. Do you understand that? |
| 22 | MR. YOUNG: Standing objection. | 22 A No. |
| 23 | BY MS. ENGLAND: | 23 MR. YOUNG: No. Topic No. 6 dealt with what |
| 24 | Q And you never put the documents -- I'm sorry. | 24 you called a restroom policy announced and imposed on |
| 25 | You never committed in writing to exactly what | 25 Plaintiff in October and/or November of 2011. That was |

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| <p>1 the policy that No. 6, Subject No. 6 is about. And 2 then any decision to change that -- quote, unquote -- 3 policy that we have defined as a position that was 4 taken with regard to Officer Roberts' restroom use. 5 That is the topic that you identified for No. 6. 6 You're talking about something completely different 7 now, Kathy.</p> <p>8 BY MS. ENGLAND:</p> <p>9 Q Mr. Okazaki, you have to answer my questions.</p> <p>10 A I'm answering every question you present to 11 me.</p> <p>12 Q Great. Let's continue to do so then, okay?</p> <p>13 A Sure.</p> <p>14 Q So in August of 2012, the School District -- 15 and you've already talked about this Instruction Unit 16 working in connection with Mr. Greenberg, you've said 17 that they worked up a policy. And you identified 18 Dr. Barton, I believe it was, as the head of the 19 Instruction Unit. I asked you who initiated the idea 20 that there was going to be a new position imposed on 21 Brad Roberts. And you said the initiation came from 22 Scott Greenberg after the receipt of the notice of the 23 hearing, and instructions went to the Instruction Unit 24 to do so.</p> <p>25 A No, that's not what I said.</p> | <p>1 A Scott Greenberg asked the Instruction Unit to 2 confirm in writing that this was our -- this was the 3 rule at school sites.</p> <p>4 Q And how did Scott Greenberg ask the 5 Instruction Unit to confirm in writing that that was 6 the practice at school sites? By e-mail?</p> <p>7 A I don't know.</p> <p>8 Q Did you ask Mr. Greenberg how he did that so 9 you could be prepared to come here today and tell us?</p> <p>10 A No.</p> <p>11 Q And when did Mr. Greenberg do that?</p> <p>12 A Some time before the written confirmation of 13 the rule was issued, and after the Exhibit 37, the 14 notice of the administrative hearing.</p> <p>15 MR. YOUNG: I'm going to impose the standing 16 objection on that question. Sorry that was late.</p> <p>17 BY MS. ENGLAND:</p> <p>18 Q So some time after the September 6th, 2012, 19 notice but before the issuance of the actual -- you 20 first stalled it a "policy," now you've downgraded it 21 to "practice" or "rule."</p> <p>22 A Correct.</p> <p>23 Q And before the practice or rule was issued --</p> <p>24 A In writing.</p> <p>25 Q -- in writing, there was no written practice</p> |
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| <p>1 Q Okay. So what did you say?</p> <p>2 A I said -- you asked me who was involved --</p> <p>3 Q Why don't you tell me what you said?</p> <p>4 A I don't remember what I said. I know I didn't 5 say that.</p> <p>6 Q Okay. Tell me what you said.</p> <p>7 A Actually, I'm trying to repeat what I said. I 8 said that the decision to change the District's 9 position in regard to Officer Roberts came after the 10 notice of -- after we realized that the matter was 11 going to go to a public hearing, that it was initiated 12 by Scott Greenberg, and that Carlos McDade and, I 13 believe Dr. Barton was involved in that decision. 14 That's all I said.</p> <p>15 Q What was Dr. Barton's -- you said Dr. Barton 16 was the head of the Instruction Unit at the time?</p> <p>17 A Correct.</p> <p>18 Q What was Dr. Barton's involvement?</p> <p>19 A His involvement was to memorialize in writing 20 a longstanding policy in regard to restroom use at 21 school sites. If I said "policy," I misspoke. A 22 longstanding practice or rule regarding restroom use at 23 school sites.</p> <p>24 Q And you say that was Dr. Barton at the 25 Instruction Unit who was tasked with that, by whom?</p> | <p>1 or rule regarding school adult restroom use, was there?</p> <p>2 A No.</p> <p>3 MS. ENGLAND: I'll show you what we'll have 4 marked as Exhibit 39. 5 (Exhibit 39 marked)</p> <p>6 BY MS. ENGLAND:</p> <p>7 Q Mr. Okazaki, in connection with your 8 preparation on Subject No. 6, you did not ask 9 Mr. Greenberg to see the e-mail or other communication 10 that you say occurred some time after September 6th but 11 before October 1st where he asked Dr. Barton or 12 instructed -- excuse me -- asked Dr. Barton to have the 13 Instruction Unit confirm in writing what was the 14 practice or the rule about school adult restroom use?</p> <p>15 MR. YOUNG: Standing objection.</p> <p>16 THE WITNESS: Correct.</p> <p>17 MS. ENGLAND: And, Mr. Young, we'll ask the 18 School District to produce that e-mail or other 19 communication or memorialization about exactly when 20 Scott Greenberg asked Dr. Barton of the Instruction 21 Unit to confirm in written form the school adult 22 restroom use practice or rule.</p> <p>23 MR. YOUNG: On what basis?</p> <p>24 MS. ENGLAND: On the basis of this witness 25 should have been prepared to testify to that.</p> |

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| 1 | MR. YOUNG: I'll disagree. And I'll reimpose 2 the standing objection. | 1 BY MS. ENGLAND: 2 Q So did you ask Mr. Greenberg in preparing to 3 come here today, did you ask him to see the e-mail or 4 the other communication he used to communicate to the 5 Instruction Unit that they need to have evidence of 6 this longstanding rule? |
| 3 | BY MS. ENGLAND: | 7 A No. |
| 4 | Q So you can't pinpoint the date when Scott 5 Greenberg did it? | 8 Q Did anyone tell you it was your obligation in 9 order to be able to speak to this today to go find that 10 out, to take a look at those documents, or to otherwise 11 ask Dr. Barton, or now Superintendent Skorkowsky, if 12 they indeed were at the receiving end of the 13 instruction? |
| 6 | A I cannot. I can't even pinpoint whether it 7 was Dr. Barton, or -- now that I'm looking at this 8 document, it refreshes my recollection that Pat 9 Skorkowsky at the time was actually the deputy 10 superintendent over instruction, and Mike Barton was 11 the associate superintendent. All I know is that 12 the -- | 14 MR. YOUNG: Standing objection. |
| 13 | Q What did Mr. Greenberg tell you? | 15 THE WITNESS: No. |
| 14 | A -- communication went to the Instruction Unit 15 because the Instruction Unit was the one who issued the 16 written confirmation of the school rule. | 16 BY MS. ENGLAND: |
| 17 | Q Who told you that the communication went from 18 Scott Greenberg to the Instruction Unit? | 17 Q Did you ask Mr. Greenberg, who was providing 18 you with information so that you could be the 30(b)(6) 19 Designee, did you ask him how he knew what this 20 longstanding rule or practice was, where did he get the 21 information about its existence even if it wasn't 22 written? |
| 19 | A Scott Greenberg. | 23 MR. YOUNG: Standing objection. |
| 20 | Q And Mr. Greenberg told you this when? | 24 THE WITNESS: Yes. He got that from the 25 Instruction Unit. So he received from the Instruction |
| 21 | A During our meeting in preparation for the 22 first deposition. | |
| 23 | Q Two weeks ago? | |
| 24 | A Whatever date that was. | |
| 25 | Q In the month of June? | |
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| 1 | A Yes. | 1 Unit what the rule would be at schools in regard to 2 adult restroom use. And then he said he asked them, 3 "Will you put that in writing so we will have evidence 4 of that longstanding rule in writing?" |
| 2 | Q Of 2016? | 5 BY MS. ENGLAND: |
| 3 | A Yes. | 6 Q So when you say "he," you're talking about 7 Mr. Greenberg received from the Instruction Unit what 8 the rule was, and then Mr. Greenberg asked the 9 Instruction Unit to put it in writing? |
| 4 | Q When Mr. Greenberg, preparing you to testify 5 here today as the 30(b)(6) Designee, told you that he 6 communicated with someone in the Instruction Unit, did 7 you ask him the follow-up questions: Did you ask him: 8 When did you communicate? Who did you communicate? 9 What did you tell them? Can I see the e-mail? Has it 10 been memorialized? | 10 A Correct. |
| 11 | Did you ask Mr. Greenberg any of those 12 follow-up questions so that you could come here today 13 and be fully prepared to tell us when Mr. Greenberg 14 undertook initiating the -- what ended up being the 15 written School Adult Restroom Rule? | 11 MR. YOUNG: Standing objection. |
| 16 | MR. YOUNG: Standing objection. | 12 BY MS. ENGLAND: |
| 17 | THE WITNESS: Yes. I asked him, what was the 18 communication? What did you ask the Instruction Unit 19 to do? What was their involvement in this? And he 20 indicated that there was a need to have evidence that 21 there was this longstanding rule, and the intent to put 22 it in writing. And so they -- he communicated that to 23 the Instruction Unit. The Instruction Unit said, sure, 24 fine. They drafted that up, and they distributed it. | 13 Q Who did Mr. Greenberg, and when did 14 Mr. Greenberg receive this information from the 15 Instruction Unit verbally that told him what the rule 16 was -- |
| 25 | //// | 17 MR. YOUNG: Standing objection. |
| | | 18 BY MS. ENGLAND: |
| | | 19 Q -- before he asked them to put it in writing? |
| | | 20 A After receipt of the notice of public hearing, 21 and prior to the distribution of it in writing. |
| | | 22 Q Who did Mr. Greenberg talk to at the 23 Instruction Unit who verbally told him what the rule 24 was? |
| | | 25 MR. YOUNG: Standing objection. |

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| 1 | THE WITNESS: I don't know. | 1 Unit to put it together in a written rule? |
| 2 | BY MS. ENGLAND: | 2 MR. YOUNG: Standing objection. |
| 3 | Q Did you not know it was your obligation to | 3 THE WITNESS: No. |
| 4 | come here today and to testify to that? | 4 BY MS. ENGLAND: |
| 5 | MR. YOUNG: Standing objection. | 5 Q So now having looked at Exhibit 39, which was |
| 6 | THE WITNESS: Yeah, I do not understand that | 6 revised on September 13th, 2012, of the people on here, |
| 7 | to be my obligation. | 7 you've identified that possibly it was Pat Skorkowsky, |
| 8 | BY MS. ENGLAND: | 8 the deputy superintendent, that Mr. Greenberg -- |
| 9 | Q Did you ask Mr. Skorkowsky? | 9 although you didn't find out -- that Mr. Greenberg |
| 10 | A No. | 10 might have gotten the information from, or it might |
| 11 | Q Did you ask Mr. Barton? | 11 have been Mike Barton, the associate superintendent? |
| 12 | A No. | 12 MR. YOUNG: Standing objection. |
| 13 | Q Did you ask anyone in the Instruction Unit? | 13 BY MS. ENGLAND: |
| 14 | A Ask them what? | 14 Q Anybody else on here? |
| 15 | Q The subject we were just talking about: Who | 15 MR. YOUNG: Standing objection. Also, |
| 16 | got the call from Scott Greenberg where Scott Greenberg | 16 argumentative. |
| 17 | asked the Instruction Unit what the school -- adult | 17 THE WITNESS: No, those are the two parties |
| 18 | school restroom use rule was? | 18 that I believe -- either one of those were the ones |
| 19 | A I did not ask anybody that question. | 19 that were involved. |
| 20 | Q And despite the fact that two weeks ago | 20 MS. ENGLAND: Okay. We're done with that. |
| 21 | Mr. Greenberg told you that he called the Instruction | 21 Here's 40. |
| 22 | Unit, you didn't ask him who he talked to who told him | 22 (Exhibit 40 marked) |
| 23 | what the rule was? | 23 BY MS. ENGLAND: |
| 24 | MR. YOUNG: Standing objection. | 24 Q Mr. Okazaki, we've given you what's been |
| 25 | THE WITNESS: He didn't tell me he called. He | 25 marked as Exhibit 40. Do you know what this is? |
| | Page 355 | Page 357 |
| 1 | understood -- he related to me that he received notice | 1 A Yes. |
| 2 | from the Instruction Unit -- and by "notice," I don't | 2 Q What is it? |
| 3 | mean anything kind of formal -- that he received | 3 A This is a correspondence that is distributed |
| 4 | information from the Instruction Unit as to the | 4 to our alternative program principals, as well as |
| 5 | unwritten rule of adult restroom use at school sites, | 5 copied to the assistant elementary school principals. |
| 6 | and then he subsequently asked them to put that in | 6 Q Is it like a newsletter? |
| 7 | writing. | 7 A Yes, with a -- not a newsletter, but, yes, an |
| 8 | BY MS. ENGLAND: | 8 informational communication about various issues and |
| 9 | Q And he didn't tell you -- Scott Greenberg | 9 topics. |
| 10 | didn't tell you who he got this information from at the | 10 Q It appears that this goes out to elementary |
| 11 | Instruction Unit? | 11 schools on a weekly basis? |
| 12 | A No. | 12 A Yes. Yes. |
| 13 | MR. YOUNG: Standing objection. | 13 Q See where it says, "Subject: Elementary |
| 14 | BY MS. ENGLAND: | 14 Schools - Weekly" -- |
| 15 | Q And he didn't tell you when he got this | 15 A Right. |
| 16 | information from the Instruction Unit? | 16 Q -- "September 21, 2012"? |
| 17 | MR. YOUNG: Standing objection. | 17 A Correct. |
| 18 | THE WITNESS: No. | 18 Q Do you see that? |
| 19 | BY MS. ENGLAND: | 19 A Yes. |
| 20 | Q And you didn't undertake any additional | 20 Q Juanita Cha Williams, is Ms. Williams a School |
| 21 | preparation measures to find out who told Scott | 21 District official? |
| 22 | Greenberg and when they told him? | 22 A No, I don't believe she's an official. I |
| 23 | A No. | 23 believe she's a support staff employee who is |
| 24 | Q And similarly, you didn't find out when Scott | 24 responsible for just actually putting this into an |
| 25 | Greenberg told them and who he told in the Instruction | 25 InterAct, and then e-mailing it to these groups of |

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| 1 | people. | 1 BY MS. ENGLAND: |
| 2 | Q So does Ms. Williams work for a School | 2 Q Mr. Okazaki, we're on Exhibit 40, on the page |
| 3 | District official who tells her or oversees what's | 3 2 of the exhibit which is 1911. |
| 4 | supposed to go into these newsletters? | 4 A Okay. |
| 5 | A Yes. | 5 Q It says, "Please see the attachment entitled |
| 6 | Q Who does she work for? | 6 School Adult Restroom Use." Do you see that the |
| 7 | A I don't know her immediate supervisor. | 7 alternative and elementary school principals are being |
| 8 | Q But in general? | 8 told that this is a new entry in the Instruction Unit |
| 9 | A Yeah, Instruction Unit. This comes out of the | 9 Administrative Reference? |
| 10 | Instruction Unit. | 10 A Yes. |
| 11 | Q So does Ms. Williams work for the Instruction | 11 Q Does that mean this is the first time this |
| 12 | Unit? | 12 rule is being issued in written form? |
| 13 | MR. YOUNG: Standing objection. | 13 A No. That means that it's the first time that |
| 14 | THE WITNESS: Yes, I believe she does. | 14 it's going to be included in the Instruction Unit |
| 15 | BY MS. ENGLAND: | 15 Administrative Reference document. |
| 16 | Q So this indicates -- if you look on the second | 16 Q Where would -- well, it didn't exist in |
| 17 | page, CCSD 001911 -- | 17 written form before this September 2012 time frame; |
| 18 | A Okay. | 18 isn't that right? |
| 19 | Q -- it's listed under "Must Know." Do you see | 19 MR. YOUNG: Standing objection. |
| 20 | that? | 20 THE WITNESS: That's correct. |
| 21 | A Yes. | 21 BY MS. ENGLAND: |
| 22 | Q "School Adult Restroom Use"? | 22 Q And what you're saying -- what does this mean? |
| 23 | A Yes. | 23 Does it mean that it's being issued -- this practice |
| 24 | Q And it says, "Please see the attachment titled | 24 has been reduced to writing, and it's now going to be |
| 25 | School Adult Restroom Use." Is that the restroom use | 25 issued in written form, but it also is going to become |
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| 1 | rule or practice of which you were speaking, which is | 1 part of the Instruction Unit Administrative Reference? |
| 2 | what came out of the Instruction Unit in September of | 2 MR. YOUNG: Standing objection. |
| 3 | 2012 after Mr. Greenberg initiated it being reduced to | 3 THE WITNESS: Yes. |
| 4 | writing? | 4 BY MS. ENGLAND: |
| 5 | MR. YOUNG: Standing objection. | 5 Q So what kinds of things are included in this |
| 6 | THE WITNESS: Yes. | 6 Instruction Unit Administrative Reference? |
| 7 | BY MS. ENGLAND: | 7 MR. YOUNG: Standing objection. |
| 8 | Q And this adult restroom use, you're saying | 8 THE WITNESS: All various types of things in |
| 9 | from your discussion with Mr. Greenberg, was nothing | 9 regard to the operation of the school. So they're |
| 10 | more than committing what was the rule or practice to | 10 numerous. |
| 11 | writing? | 11 BY MS. ENGLAND: |
| 12 | A Yes. | 12 Q And then it says, "Principals must ensure that |
| 13 | Q Didn't change anything? It's not a policy. | 13 the school follows the procedure." Whose idea was it |
| 14 | It didn't change anything. It was just that now the | 14 that principals would be responsible for this? |
| 15 | Instruction Unit was issuing it in written form what | 15 MR. YOUNG: Standing objection. |
| 16 | you, the School District, understood to be the actual | 16 THE WITNESS: The Instruction Unit included |
| 17 | practice existing in the District at the time? | 17 that, that part. So the Instruction Unit, who is the |
| 18 | MR. YOUNG: Standing objection. | 18 administrative head of all the principals, is directing |
| 19 | THE WITNESS: Yes. | 19 them to ensure that they follow the procedure. |
| 20 | BY MS. ENGLAND: | 20 BY MS. ENGLAND: |
| 21 | Q And this says -- | 21 Q When you say the Instruction Unit is the |
| 22 | MR. YOUNG: I'm sorry. Before you ask another | 22 administrative head of all the principals, does that |
| 23 | question, I need to take a break. | 23 mean that that Instruction Unit is the layer of the |
| 24 | MS. ENGLAND: Of course. | 24 hierarchy of the School District that oversees all of |
| 25 | (Recess taken from 1:44 to 1:50) | 25 the schools? |

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| 1 | MR. YOUNG: Standing objection. | MR. YOUNG: Standing objection. |
| 2 | THE WITNESS: Yes, for instruction and school | BY MS. ENGLAND: |
| 3 | operation purposes, so anything regarding instruction | 3 Q So it's inaccurate to call -- to suggest that |
| 4 | curriculum that the principals would answer up the | 4 there's a previous written version by calling this |
| 5 | chain of the Instruction Unit. | 5 "date of revision." This the first time this is issued |
| 6 | BY MS. ENGLAND: | 6 in writing, is it not? |
| 7 | Q So Mr. Skorkowsky, who is now the | 7 A I believe so. |
| 8 | Superintendent of Schools, but when he was head, as | 8 MR. YOUNG: Standing objection. Compound. |
| 9 | you've seen in the earlier document, when he was head | 9 You can answer. |
| 10 | of the Instruction Unit, to whom did he report? | 10 THE WITNESS: I believe so. |
| 11 | MR. YOUNG: Standing objection. | 11 BY MS. ENGLAND: |
| 12 | THE WITNESS: The superintendent. | 12 Q And where in this rule issued by the |
| 13 | BY MS. ENGLAND: | 13 Instruction Unit does it say anything about gender |
| 14 | Q Was that a direct report from Mr. Skorkowsky | 14 specific use of restrooms? |
| 15 | as the deputy superintendent, head of Instruction Unit, | 15 A It does not. |
| 16 | directly to Superintendent Jones? | 16 Q And where in this restroom use rule does it |
| 17 | MR. YOUNG: Standing objection. | 17 indicate that Brad Roberts, a transgender male, is |
| 18 | THE WITNESS: Yes. | 18 permitted to use male restroom facilities from which he |
| 19 | BY MS. ENGLAND: | 19 had been banned at School District property for the |
| 20 | Q There's no associate -- there's no | 20 past year? |
| 21 | intermediary between Mr. Skorkowsky as deputy | 21 MR. YOUNG: Standing objection. |
| 22 | superintendent and the superintendent himself or | 22 THE WITNESS: I'm sorry. Can you repeat that |
| 23 | herself; right? | 23 question? |
| 24 | MR. YOUNG: Standing objection. | 24 MS. ENGLAND: Sure. |
| 25 | THE WITNESS: No. | 25 //// |
| | Page 363 | Page 365 |
| 1 | BY MS. ENGLAND: | 1 BY MS. ENGLAND: |
| 2 | Q So then go on and look at the last page, which | 2 Q Where in this School Adult Restroom Use Rule |
| 3 | is the actual policy. Do you see it says date of | 3 does it indicate that Brad Roberts, a transgender male |
| 4 | revision, September 12th, 2012? | 4 employee, is now permitted to use male restrooms? |
| 5 | A Yes. | 5 MR. YOUNG: Standing objection. |
| 6 | Q So that's the date it's actually issued, is it | 6 THE WITNESS: This does not specifically |
| 7 | not? It's not revised from an earlier one? | 7 reference transgender or gender identity employees. |
| 8 | A Yes. I mean, I think it's the first time that | 8 BY MS. ENGLAND: |
| 9 | this was -- this rule is actually put in writing. | 9 Q And this rule, School Adult Restroom Use Rule, |
| 10 | Q So it actually shouldn't say "date of | 10 does not at all address anything to do with |
| 11 | revision." It should say "date of issuance" to be more | 11 gender-specific restrooms facility, does it? |
| 12 | accurate, should it not? | 12 MR. YOUNG: Standing objection. |
| 13 | MR. YOUNG: Standing objection. | 13 THE WITNESS: No. |
| 14 | THE WITNESS: Well, depends, I guess, like I | 14 BY MS. ENGLAND: |
| 15 | indicated -- | 15 Q And it says that, "Clark County School |
| 16 | BY MS. ENGLAND: | 16 District employees assigned to work in a school |
| 17 | Q On this policy? | 17 facility are supposed to be using the adult restrooms |
| 18 | A Well, it's not a policy. | 18 provided." |
| 19 | Q Excuse me. | 19 Did you understand that that was the general |
| 20 | A It's a rule. And if the idea that it's being | 20 practice throughout the School District -- |
| 21 | revised to be put into writing, then that happened on | 21 A Yes. |
| 22 | September 12th, 2012. | 22 Q -- that adult employees don't use children's |
| 23 | Q But there is no prior iteration of this in | 23 restrooms in school facilities in general? |
| 24 | writing? | 24 MR. YOUNG: Standing objection. |
| 25 | A Correct. | 25 THE WITNESS: That was our rule. That was our |

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|---|---|
| 1 longstanding rule and practice that adults should not 2 be using the student restrooms. 3 BY MS. ENGLAND: 4 Q And what was -- what schools were Brad Roberts 5 assigned to during the year of prohibition? 6 MR. YOUNG: Standing objection. 7 THE WITNESS: I don't know. 8 BY MS. ENGLAND: 9 Q You've already said that you did not 10 undertake, and you know of no one undertaking a survey 11 to see if the schools to which Brad Roberts was 12 routinely assigned had facilities that he could use for 13 the purposes of urinating and defecating? 14 MR. YOUNG: Standing objection. 15 THE WITNESS: Yes, I did not -- I testified 16 that I did not do a survey or any kind of poll, or 17 anything. I would say aware that all of our schools 18 have single-occupancy and/or gender-neutral facilities. 19 BY MS. ENGLAND: 20 Q Did you inspect the schools that Brad Roberts 21 was regularly assigned to? 22 A No. 23 MR. YOUNG: Standing objection. 24 BY MS. ENGLAND: 25 Q And when you say, "I was aware that all | 1 not lying, you just don't recall; isn't that correct? 2 You didn't take any notes? 3 MR. YOUNG: Standing objection. 4 THE WITNESS: I did not take any notes. 5 BY MS. ENGLAND: 6 Q Okay. We're done with 40. 7 Could you turn to 41, please, which I believe 8 is in the book? 9 So the high school principals, according to 10 Exhibit 40, have been told on September 21st about the 11 now written rule for school adult room use. And this 12 shows Scott Greenberg telling the chief of police of 13 the School District Police Department, telling them for 14 the first time that the Instruction Unit written rule 15 for bathroom use at school is now being attached. Do 16 you see that? 17 A I see it says, "Attached." I'm not sure where 18 you're getting the reference to the first time that 19 it's being attached. 20 Q Okay. So when did Scott Greenberg first tell 21 the police department about the school adult restroom 22 use policy -- 23 MR. YOUNG: Standing objection. 24 BY MS. ENGLAND: 25 Q -- since you are the 30(b)(6) Designee who is |
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| 1 schools have these facilities," you were not aware that 2 some of the schools that he was regularly assigned to 3 didn't have those facilities, were you? 4 MR. YOUNG: Standing objection. Misrepresents 5 facts in evidence. You may answer. 6 BY MS. ENGLAND: 7 Q You were not aware of that? 8 A I don't believe that's true. So, no, I was 9 not aware of that. 10 Q When Brad Roberts told you in that meeting on 11 November 22nd, 2011, that not all the schools that he's 12 assigned to have those facilities, you never responded 13 to him, did you? 14 MR. YOUNG: Standing objection. 15 THE WITNESS: I don't recall Brad Roberts 16 making that statement to me. 17 BY MS. ENGLAND: 18 Q And you didn't write it down or check into it, 19 did you, when he protested and said not every school 20 has those facilities? 21 A I don't recall him making that statement. 22 MR. YOUNG: Standing objection. 23 BY MS. ENGLAND: 24 Q And so others who remember him making that 25 statement and others who remember challenging, they're | 1 supposed to come here today and tell us about when the 2 police department found out about this now written 3 rule? 4 MR. YOUNG: Standing objection. 5 THE WITNESS: I'm not -- I didn't -- I have no 6 idea when or if Scott Greenberg verbally told the chief 7 of police about the longstanding rule and practice at 8 schools in regard to adult restroom use. 9 BY MS. ENGLAND: 10 Q So you came here today -- 11 A I know that in this e-mail, he is -- he is 12 saying, "Attached is the written rule for bathroom use 13 at schools." 14 Q And that occurred on what date? 15 A September 25th, 2012. 16 Q So that's almost two weeks after it was issued 17 by the Instruction Unit, is it not? 18 MR. YOUNG: Standing objection. 19 THE WITNESS: No, it doesn't look like it's 20 that long. 21 BY MS. ENGLAND: 22 Q You're not looking at the right page. 23 A Which page number are you looking at? 24 Q If you're on Exhibit 40, you should be looking 25 at the actual policy. You're looking at how quickly |

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| 1 | the elementary schools got it out to its principals. | 1 BY MS. ENGLAND: |
| 2 | Now I'm asking about how quickly the legal department | 2 Q What did Mr. Greenberg tell you? |
| 3 | told the police department about it. | 3 A Officer Roberts was given this -- |
| 4 | MR. YOUNG: Standing objection. | 4 Q What did Mr. Greenberg tell you? |
| 5 | THE WITNESS: Again, it's not a policy, but -- | 5 MR. YOUNG: Let him answer. |
| 6 | BY MS. ENGLAND: | 6 THE WITNESS: I'm trying to answer the |
| 7 | Q Excuse me. The rule. | 7 question. |
| 8 | A Yes, the rule was put in writing on September | 8 BY MS. ENGLAND: |
| 9 | 12th, 2012. And Mr. Greenberg e-mailed the written | 9 Q No. My question was: Did Mr. Greenberg tell |
| 10 | rule, that written rule to the chief of police on | 10 you why Officer Roberts was singled out as an |
| 11 | September 25th. | 11 individual to be given the unwritten rule? |
| 12 | Q So that's almost two weeks later? | 12 A And I'm -- |
| 13 | A 13 days. | 13 Q You answered, "Yes." Now you need to -- |
| 14 | Q Would you agree with me that's almost two | 14 that's all, the only question I asked. It's a "yes" -- |
| 15 | weeks? | 15 MR. YOUNG: You can't cut him off in the |
| 16 | A Almost, yes. | 16 middle of answering the question. You have to let him |
| 17 | Q And in preparation for your testimony here | 17 answer the question fully. It's inappropriate for you |
| 18 | today as the 30(b)(6) Designee, you looked at no | 18 to cut the witness off in the middle of answering a |
| 19 | evidence that Mr. Greenberg sent it to the police | 19 question. |
| 20 | department any sooner than the document you have in | 20 BY MS. ENGLAND: |
| 21 | front of you, which is 41? | 21 Q The answer to my question was "yes" or "no." |
| 22 | MR. YOUNG: Standing objection. | 22 Did Mr. Greenberg tell you why Officer Roberts |
| 23 | THE WITNESS: Yeah, I'm not aware of him | 23 was singled out for being given this Instruction Unit |
| 24 | sending it -- oh, I'm sorry. | 24 written rule on adult use of school bathrooms? And the |
| 25 | MR. YOUNG: Standing objection. You can | 25 answer is "yes" or "no." |
| | Page 371 | Page 373 |
| 1 | answer. | 1 A No. |
| 2 | THE WITNESS: I'm not aware of him sending it | 2 Q Okay. We're done with that. |
| 3 | any time earlier than this e-mail. | 3 Would you turn to 42? |
| 4 | BY MS. ENGLAND: | 4 Just so we have this timing straight, on |
| 5 | Q So would you please read this e-mail from the | 5 September 25th at 11:30 in the morning, Mr. Greenberg |
| 6 | word, "Please," which is the second sentence? | 6 tells Chief Ketsaa to -- I'm sorry. Go back to |
| 7 | A "Please meet with Roberts to inform him that | 7 Exhibit 41. What's the subject line of that? |
| 8 | he may use the bathroom of choice," parenthesis, | 8 A "Bradley Roberts." |
| 9 | "male," closed parenthesis, "at non-School District | 9 Q And what other employees were singled out and |
| 10 | facilities," open parenthesis, "we still don't care | 10 personally handed a copy of the Instruction Unit |
| 11 | what bathroom he uses at non-District sites," closed | 11 written rule for bathroom use at schools? Please name |
| 12 | parenthesis, "and that at schools, he is to follow the | 12 them. |
| 13 | attached rule, i.e., use admin bathrooms," open | 13 MR. YOUNG: Standing objection. |
| 14 | parenthesis, "give him a copy if he wants to have it," | 14 THE WITNESS: I'm not aware of any other |
| 15 | closed parenthesis, period. "Please let me know after | 15 employee who was individually handed the written rule |
| 16 | you meet with him. Can you do it this week?" | 16 for bathroom use at schools. |
| 17 | Q Did you and Mr. Greenberg discuss this e-mail | 17 BY MS. ENGLAND: |
| 18 | when you were preparing to be the 30(b)(6) Designee? | 18 Q Do you see that Greenberg is telling the |
| 19 | A Yes. | 19 police department on September 25th to single out Brad |
| 20 | Q Did Mr. Greenberg tell you why Mr. Roberts was | 20 Roberts and provide him with a copy of this rule? |
| 21 | being singled out as an individual to be given this new | 21 MR. YOUNG: Standing objection. |
| 22 | Instruction Unit written rule? | 22 Argumentative. |
| 23 | MR. YOUNG: Standing objection. You can | 23 BY MS. ENGLAND: |
| 24 | answer. | 24 Q Right? |
| 25 | THE WITNESS: Yes. He wasn't -- | 25 A No, no. And I say no because -- |

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| 1 | Q I'm just asking about the time. | 1 BY MS. ENGLAND: |
| 2 | A I'm saying because he's not being singled out. | 2 Q So when you say "this is" and you're pointing |
| 3 | Q No, no. I'm asking about the time. Do you | 3 to something, what is it you're pointing to, |
| 4 | see that on September 25th, Greenberg is telling the | 4 Mr. Okazaki? |
| 5 | police department that Brad Roberts is to be met with | 5 A Exhibit 42. |
| 6 | and given or shown a copy of the Instruction Unit | 6 Q So do you see that the Exhibit 41 e-mail is in |
| 7 | written rule on -- they're being told on September | 7 the stream below in Exhibit 42? |
| 8 | 25th? | 8 A Yes. |
| 9 | A Yes. | 9 Q So you do not agree that Exhibit 42's e-mail |
| 10 | Q Now look at Exhibit 42. This is from -- did | 10 is in response to Exhibit 41's e-mail, even though they |
| 11 | you look at this e-mail with Mr. Greenberg? | 11 follow in the stream? |
| 12 | A Yes. | 12 A No, what I said was Exhibit 42 from Captain |
| 13 | Q In preparation for being the 30(b)(6) Designee | 13 York has nothing to do with Officer Roberts. This is a |
| 14 | on Subject No. 6? | 14 secondary thing that he is doing by publicizing or |
| 15 | A Yes. | 15 publishing the Instruction Unit written rule of adult |
| 16 | Q What is the subject of this e-mail? | 16 restroom use at schools in their general administrative |
| 17 | A "Bathroom use by non-school based personnel." | 17 notices to all police officers. So separate and apart |
| 18 | Q What is the date of this e-mail where the | 18 from this, they met with -- |
| 19 | police department is now notifying -- or now taking the | 19 Q When you say "this," what are you talking to? |
| 20 | action that they were told to take back on September | 20 A Exhibit 42 -- they met with Officer Roberts, |
| 21 | 25th by Scott Greenberg? | 21 they advise him of the new position, they gave him a |
| 22 | A I disagree with that characterization. This | 22 copy of the adult restroom -- but all of that that they |
| 23 | is not what -- | 23 did with Officer Roberts is not in any way memorialized |
| 24 | MR. YOUNG: Standing objection. You can | 24 or referenced in Captain York's e-mail of October 3rd. |
| 25 | answer. | 25 Q Well, actually, it is, Mr. Okazaki. Look at |
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| 1 | THE WITNESS: This e-mail has nothing to do | 1 Exhibit 42. |
| 2 | 2 with -- or it doesn't have anything to do with Officer | 2 A Okay. |
| 3 | 3 Roberts. | 3 Q Do you have that in front of you? |
| 4 | 4 BY MS. ENGLAND: | 4 A I do. |
| 5 | 5 Q Okay. Exhibit No. 41, Scott Greenberg | 5 Q Perhaps you could put your glasses on. Do you |
| 6 | 6 instructs the -- the subject of it is "Bradley | 6 see the top of it? |
| 7 | 7 Roberts," and it does two things, does it not? It | 7 A Yes. |
| 8 | 8 attaches the Instruction Unit written rule, and it | 8 Q So this is Anthony York and Scott Greenberg |
| 9 | 9 tells the police department to meet with Brad Roberts? | 9 sending to Mari Fernandez and Lieutenant Ken Young, |
| 10 | 10 A I can agree with that. | 10 they're forwarding the original message that |
| 11 | 11 Q And Greenberg tells Ketsaa to do that in an | 11 Mr. Greenberg sent to Chief Ketsaa. Do you see that |
| 12 | 12 e-mail as soon as possible, but he sends that e-mail on | 12 below? |
| 13 | 13 September 25th? | 13 A No, they're forwarding the attachment saying |
| 14 | 14 A I can agree with that. | 14 use this to create an AN. |
| 15 | 15 Q And then the first evidence that the police | 15 Q And they're forwarding the e-mail, which is |
| 16 | 16 department is complying with the first part of that, | 16 Greenberg's e-mail? |
| 17 | 17 which is the Instruction Unit issuing the Instruction | 17 A The e-mail is included in the forwarded e-mail |
| 18 | 18 Unit rule, is this October 3rd, eight days later, | 18 which has the attachment to which he was forwarding. |
| 19 | 19 e-mail from York and Greenberg to Mari Fernandez | 19 But Captain York's actual e-mail message to Mari is |
| 20 | 20 saying, "Here's the new Instruction Unit rule, please | 20 simply, here is a new written -- written rule regard to |
| 21 | 21 make up an administrative notice for this." Do you see | 21 adult restroom use at schools, use it and create an AN. |
| 22 | 22 that? | 22 Q And in doing so, Captain York and Scott |
| 23 | 23 MR. YOUNG: Standing objection. | 23 Greenberg both -- their forwarding included all the |
| 24 | 24 THE WITNESS: I see that, but I do not agree | 24 information below in the original message which |
| 25 | 25 that that's what this is. | 25 Greenberg sent to Ketsaa which says, "Attached is the |

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| <p>1 Instruction Unit rule for bathroom use at schools, 2 please meet with Roberts to inform him that he may use 3 the bathroom of his choice, male, at non-School 4 District facilities and" -- Greenberg says -- "we still 5 don't care what bathroom he uses at non-District 6 sites."</p> <p>7 So when you said this had nothing to do with 8 it, they forwarded Greenberg's e-mail on to Mari 9 Fernandez and to Lieutenant Young so they are given 10 access to the two items: Number one, there's a new 11 Instruction Unit rule; and, number two, we're going to 12 tell Roberts this stuff, and we still don't care what 13 he uses if he's offsite. Do you see that?</p> <p>14 MR. YOUNG: Standing objection.</p> <p>15 THE WITNESS: I see what the e-mail says. 16 What I'm telling you is that the District's position is 17 that, yes, Scott Greenberg's e-mail to Chief Ketsaa is 18 included in the e-mail that Captain York sends to Mari. 19 But the subject of Anthony or Captain York's e-mail of 20 October 3rd to Mari is simply to take the attachment 21 that Scott had sent to Chief Ketsaa, separate and 22 apart, and had nothing to do with Officer Roberts, in 23 creating an administrative notice so that all the CCSD 24 PD officers would know what the written rule regarding 25 adult restroom use at schools was. That's what I'm</p> | <p>1 sending it to both her and Lieutenant Young and telling 2 Mari, confirming that they apparently had a 3 conversation, and he sends it under the chief's 4 signature. Do you see that --</p> <p>5 MR. YOUNG: Standing objection.</p> <p>6 BY MS. ENGLAND:</p> <p>7 Q -- Exhibit 42? Because the chief doesn't go 8 by "Tony," does he?</p> <p>9 A No. So what happens here is Scott Greenberg 10 sends the e-mail to the chief. The chief obviously 11 just forwarded it to Tony York, Captain York, without 12 apparently any comment or anything in writing, anyway. 13 And then Tony is just using this e-mail, forwarded 14 e-mail, to send the attachment to Mari.</p> <p>15 Q And to Young?</p> <p>16 A And to Young.</p> <p>17 Q And so now if you look at 43, within an hour, 18 Mari has turned the attachment into an administrative 19 notice, and it's being sent out to 12 groups, addressed 20 groups in the Clark County School District Police 21 Department. Do you see that?</p> <p>22 A Yes.</p> <p>23 MR. YOUNG: Standing objection. Asked and 24 answered.</p> <p>25 THE WITNESS: Yes.</p> |
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| <p>1 saying.</p> <p>2 BY MS. ENGLAND:</p> <p>3 Q And so please turn to Exhibit 43. So this is 4 Mari Fernandez. She is the chief of police's 5 secretary, is she not?</p> <p>6 A I believe so, yes.</p> <p>7 Q And so she, within -- in under an hour of 8 being forwarded Greenberg's e-mail that says -- and 9 Greenberg's e-mail is from September 25th -- so eight 10 days later, York sends Greenberg's e-mail to Fernandez 11 and Young, tells Fernandez, "Per our conversation, we 12 need to use the attachment from this e-mail to develop 13 an AN." Within an hour, she does it. Do you see that? 14 And that's embodied in Exhibit 43. And not only does 15 she do it, but she e-mails it out to 12 groups within 16 the Clark County School District Police Department. Do 17 you see that?</p> <p>18 MR. YOUNG: Standing objection.</p> <p>19 THE WITNESS: Yes, not agreeing to any of the 20 prefacing comments you made, I do recognize that Mari 21 Fernandez's e-mail apparently distributing the 22 administrative notice was sent out approximately less 23 than an hour after Captain York directed her to do so.</p> <p>24 BY MS. ENGLAND:</p> <p>25 Q And Captain York directed her to do so by</p> | <p>1 BY MS. ENGLAND:</p> <p>2 Q And so that was sent out at 4:07 in the 3 afternoon to pretty much everyone in the School 4 District Police Department?</p> <p>5 MR. YOUNG: Standing objection.</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MS. ENGLAND:</p> <p>8 Q What other department besides the police 9 department had this administrative notice, or this 10 school adult restroom notice sent to every single 11 member?</p> <p>12 MR. YOUNG: Standing objection.</p> <p>13 THE WITNESS: Well, it was sent to all of the 14 principals from the schools. That's the only one I'm 15 aware of, the principals, and then the Clark County 16 School District Police forwarded it to all of their 17 employees.</p> <p>18 BY MS. ENGLAND:</p> <p>19 Q So you know of no other department within the 20 School District that sent it to all of its employees?</p> <p>21 MR. YOUNG: Standing objection.</p> <p>22 THE WITNESS: Correct.</p> <p>23 BY MS. ENGLAND:</p> <p>24 Q Okay. We're done with 43.</p> <p>25 Now I'll ask you to turn to 44. So this is an</p> |

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| 1 | e-mail sent at 6:36 that night, that same night, | 1 is actually new direction for all of our officers." |
| 2 | October 3rd, 2012. Do you see that? | 2 Do you see that? |
| 3 | A Yes. | 3 A I do. |
| 4 | Q From York and Greenberg to Ken Young. Do you | 4 Q So you said that this was an actual written |
| 5 | see that? | 5 version of what was existing rule. Did you and |
| 6 | A Again, it's the chain. So from Scott -- | 6 Greenberg discuss the fact that back in October of |
| 7 | Q Do you see that? | 7 2012, Captain York is saying this is a new rule? Did |
| 8 | A No. I mean, what I see is a chain from Scott | 8 you discuss it? Yes or no? |
| 9 | Greenberg sending his initial e-mail to Chief Ketsaa; | 9 A Yes. |
| 10 | Chief Ketsaa forwarding it to Captain York; and then in | 10 Q And what did Greenberg tell you? |
| 11 | this e-mail, Captain York is sending an e-mail to | 11 A That Captain York apparently -- or obviously |
| 12 | Captain Young. | 12 was unaware that that was the school rule. |
| 13 | Q And who does Captain York CC on this e-mail? | 13 Q How did Greenberg tell you that he knew that |
| 14 | A The chief and Scott W. Fitzgerald. | 14 obviously Captain York was wrong and he, Greenberg, was |
| 15 | Q Who is Scott W. Fitzgerald? | 15 right that this was the rule of which York was unaware? |
| 16 | A I believe he's a teacher. | 16 A Because Scott Greenberg received notice, or |
| 17 | Q Where? | 17 information from the Instruction Unit that this is the |
| 18 | A I don't know. But that was a mistake by | 18 rule in schools. And so he relied on that as opposed |
| 19 | Captain York thinking that Scott Greenberg -- he | 19 to Captain York indicating this is a rule he had never |
| 20 | mistakenly put in Scott Fitzgerald. It auto-populates, | 20 heard of. |
| 21 | and he sent it to the wrong person. | 21 Q And this says that, "CCSD Police Department |
| 22 | Q How do you know that? Did you and Greenberg | 22 administration needs to provide Officer Roberts with |
| 23 | discuss this, or are you just -- | 23 different direction than previously given regarding |
| 24 | A Yes. I'm sorry. | 24 restroom use, and do it as soon as possible." And this |
| 25 | Q Did you discuss it two weeks ago? | 25 says, "In our previous meeting with Brad Roberts and |
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| 1 | A Yes. | 1 his representative, Jon Okazaki clarified that Roberts |
| 2 | Q What did Mr. Greenberg tell you? You have no | 2 was to use gender-neutral restrooms while on CCSD |
| 3 | personal knowledge of this; is that right? | 3 property." |
| 4 | A Correct. | 4 Do you see that? |
| 5 | Q What did Greenberg tell you? Since Greenberg | 5 A I do. |
| 6 | is the only one you talked to besides your legal | 6 Q So according to your testimony today, that's |
| 7 | counsel to get facts for this deposition, what did | 7 inaccurate, that, in fact, Brad Roberts was permitted |
| 8 | Greenberg tell you? | 8 to use single-use male restrooms. |
| 9 | A That Captain York mistakenly put in "Scott | 9 A Correct, that's incomplete. |
| 10 | Fitzgerald" instead of his name, Scott Greenberg. | 10 Q And incorrect? |
| 11 | Q Did Mr. Greenberg tell you that anyone had | 11 A No. He was allowed to use gender-neutral |
| 12 | made any efforts to remedy the inappropriate | 12 restrooms, but he was also allowed to use |
| 13 | misdirection of this e-mail to a teacher named Scott | 13 single-occupancy restrooms. |
| 14 | Fitzgerald? | 14 Q Are you aware of anyone else who knew that |
| 15 | MR. YOUNG: Standing objection. | 15 besides yourself testifying here today, that he was |
| 16 | THE WITNESS: No. | 16 allowed, Brad Roberts was allowed during this year of |
| 17 | BY MS. ENGLAND: | 17 prohibition to use single-use male restrooms? |
| 18 | Q And at 6:36 on October 3rd, Officer Roberts | 18 MR. YOUNG: Standing objection. |
| 19 | would have finished his shift by then, would he not? | 19 THE WITNESS: The only thing I can say is |
| 20 | A I do not know. | 20 everybody at that November 22nd meeting would have |
| 21 | Q And this says, "Ken, per our conversation, the | 21 heard me say gender-neutral or single-occupancy |
| 22 | e-mail from legal is for two issues. One is individual | 22 restrooms. Like I testified earlier, there was never |
| 23 | to Roberts, because previous specific direction was | 23 any further question or clarification as to whether |
| 24 | given and now is changed. And the second which could | 24 that included single-occupancy restrooms what were |
| 25 | impact the direction to Roberts is not individual but | 25 identified or labeled a particular gender. |

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| 1 | BY MS. ENGLAND: 2 Q So you just assumed everybody knew what you 3 meant when you were talking about single-use and 4 gender-neutral? 5 A Single-occupancy and gender-neutral, yes. 6 Q Those two aren't the same; right? 7 A No. 8 Q So this says that -- so everyone but you has 9 been laboring under this belief that Brad Roberts is 10 not allowed to use single-use male restrooms? 11 MR. YOUNG: Standing objection. 12 BY MS. ENGLAND: 13 Q You're the only one that thinks that, 14 Mr. Okazaki. Did you believe that it was incumbent 15 upon you if indeed all of the paperwork that's laid out 16 in front of you representing this to the Nevada Equal 17 Rights Commission failed to include that critical idea 18 you're now claiming today -- 19 MR. YOUNG: Standing objection. 20 BY MS. ENGLAND: 21 Q -- i.e., that Brad Roberts was permitted by 22 your instruction to use single-occupancy male 23 restrooms? 24 MR. YOUNG: Are you done? 25 MS. ENGLAND: I am. | 1 This was completed this afternoon." 2 Do you see that? That's York reporting -- 3 excuse me -- yeah, that's York reporting to Ken and 4 CC'ing Greenberg on it -- 5 A Correct. 6 Q -- so that they're told that it's being done? 7 A Yes. 8 Q And did you discuss this with Greenberg in 9 preparation for your deposition here today, that this 10 was the way that the police department, and the police 11 department only was sending it out to every single 12 employee unlike any other School District department? 13 MR. YOUNG: Standing objection. 14 THE WITNESS: Yes. We discussed the fact that 15 the Clark County School District Police Department 16 decided to attach the written rule in an administrative 17 notice and distribute it to all of the employees. 18 BY MS. ENGLAND: 19 Q And under the direction of Scott Greenberg, 20 the police department was to meet with Brad Roberts 21 specifically; isn't that correct? 22 A Yes. 23 Q And Greenberg instructed -- strike that. 24 Greenberg issued no instruction for any other 25 School District employee to be met with except Brad |
| | Page 387 | Page 389 |
| 1 | MR. YOUNG: Standing objection. 2 Argumentative. 3 THE WITNESS: I'm not aware that I'm the only 4 one who had that understanding. And I believe that all 5 of our correspondence and briefs and position 6 statements are consistent with that, with what I recall 7 advising Officer Roberts that he was allowed to use 8 gender-neutral or single-occupancy restrooms, that he 9 was simply not allowed to use the male restroom. 10 BY MS. ENGLAND: 11 Q When you say he was not allowed to use the 12 male restroom, did you provide him with more 13 specificity about which male restrooms he was not 14 allowed to use? 15 A No, I do not recall there being any elaborate 16 discussion on details of what those terms meant. 17 Q And you did not elaborate on it and say, 18 "Brad, you can use the male restroom" -- you never told 19 him, "Brad, you can use the male restroom if it's a 20 single-occupancy and has a male sign on it"? You never 21 told him that, did you? 22 A No. 23 Q And then this says that, number 2, "We are 24 providing all employees with a new Instruction Unit 25 direction regarding the use of restroom at schools. | 1 Roberts; isn't that correct? 2 A In regard to restroom use? Yes. I don't 3 think Scott Greenberg directed anybody else to meet 4 with any employee in regard to restroom use. 5 Q The only person Greenberg directed any School 6 District official to meet with is the direction he gave 7 to the police department that they were to meet with 8 Brad Roberts? 9 A Yes, to tell him the change of instruction. 10 Q And Brad is the only one? 11 A Yes. 12 Q And Greenberg said he can have a copy of the 13 adult school restroom use policy if he wants one? 14 A I think the message was: Meet with Brad 15 Roberts, tell him that he may now use male gender 16 restrooms, but make him aware of the school use policy, 17 he shouldn't be using student restrooms. If he wants a 18 copy of this written rule, give him a copy of the rule. 19 Q Was there any indication that Brad Roberts had 20 ever made use of a school restroom for children? 21 MR. YOUNG: Standing objection. 22 THE WITNESS: No. 23 BY MS. ENGLAND: 24 Q So now we go on to Exhibit 38. 25 A 38? |

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| 1 | Q 38, yes. Actually, it comes next in line, but | 1 we're really sorry, that wasn't discrimination." It's |
| 2 | it wasn't lined up correctly. | 2 that the School District stopped doing what the Nevada |
| 3 | Sorry. It's over here. | 3 Equal Rights Commission told them they shouldn't be |
| 4 | (Exhibit 38 marked) | 4 doing; isn't that right? |
| 5 | MS. ENGLAND: Here's 38. | 5 A Right. |
| 6 | MR. YOUNG: Thank you. | 6 Q So the Nevada Equal Rights Commission -- oh -- |
| 7 | BY MS. ENGLAND: | 7 did the School District appeal the finding and |
| 8 | Q Did you and Scott Greenberg look at this | 8 determination by the Nevada Equal Rights Commission |
| 9 | Notice of Case Withdrawal notice from the Nevada Equal | 9 that it, the School District, was committing illegal |
| 10 | Rights Commission mailed to Mr. Greenberg on October | 10 discrimination under Nevada law to the District Court |
| 11 | 11th -- | 11 to get the finding determination of discrimination |
| 12 | A Yes. | 12 overturned? |
| 13 | Q -- 2012? | 13 A No. |
| 14 | A Yes. | 14 MR. YOUNG: Standing objection. |
| 15 | Q And did you understand that because the Clark | 15 MS. ENGLAND: So now, I'd like to stop the |
| 16 | County School District lifted the ban on Brad Roberts | 16 deposition, if I may, take a restroom break. And then |
| 17 | that prohibited him from using male restroom facilities | 17 we'll quickly do your percipient witness, and we'll be |
| 18 | at the School District, that the Nevada Equal Rights | 18 done. |
| 19 | Commission was no longer seeking an injunction to stop | 19 MR. YOUNG: Okay. |
| 20 | the School District from engaging in what the NERC | 20 (Thereupon, the deposition concluded at 2:31 p.m.) |
| 21 | believed was illegal? | 21 |
| 22 | MR. YOUNG: I'll object to the | 22 |
| 23 | characterization of what the hearing was about. You | 23 |
| 24 | can answer the question. | 24 |
| 25 | THE WITNESS: Yes, I'm not sure about that | 25 |
| | Page 391 | Page 393 |
| 1 | last part about the injunction. All he know is that in | 1 CERTIFICATE OF WITNESS |
| 2 | response to us lifting restriction on his use of | 2 PAGE LINE CHANGE REASON |
| 3 | restrooms, the Nevada Equal Rights Commission was going | 3 _____ |
| 4 | to withdraw the case, cancel the hearing, and close the | 4 _____ |
| 5 | case. | 5 _____ |
| 6 | BY MS. ENGLAND: | 6 _____ |
| 7 | Q And the Nevada Equal Rights Commission did not | 7 _____ |
| 8 | say that what the School District had done was not | 8 _____ |
| 9 | discrimination, but only that they had stopped doing | 9 _____ |
| 10 | it, and that's why they were closing the case; isn't | 10 _____ |
| 11 | that correct? | 11 _____ |
| 12 | A In closing the case, I don't -- they said -- I | 12 _____ |
| 13 | believe they indicated right here -- they said -- has | 13 _____ |
| 14 | taken measures which have resolved the issues, we're | 14 _____ |
| 15 | going to close the case. | 15 _____ |
| 16 | Q And the issues, as you understood it, was that | 16 _____ |
| 17 | the School District had banned Officer Roberts from | 17 _____ |
| 18 | using male restrooms? | 18 * * * * * |
| 19 | A Yes. | 19 I, JON OKAZAKI, ESQ., witness herein, do |
| 20 | Q And so the School District had lifted the ban | 20 hereby certify and declare under penalty of perjury the |
| 21 | so it was no longer engaging in the conduct which the | 21 within and foregoing transcription to be my deposition |
| 22 | Nevada Equal Rights Commission said was illegal? | 22 in said action; that I have read, corrected and do |
| 23 | A Correct. | 23 hereby affix my signature to said deposition. |
| 24 | Q So they didn't say, "Oh, my God, we made a | 24 _____ |
| 25 | mistake; oh, School District, you can do that; oh, | 25 JON OKAZAKI, ESQ. DATE |

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| 1 | CERTIFICATE OF REPORTER |
| 2 | STATE OF NEVADA) |
| 3 |) ss: COUNTY OF CLARK) |
| 4 | I, Mary Cox Daniel, a Certified Court Reporter licensed by the State of Nevada, do hereby certify: |
| 5 | That I reported the deposition of JON OKAZAKI, ESQ., commencing on Wednesday, June 29, 2016, at 9:32 a.m. |
| 6 | That prior to being examined, the witness first duly swore or affirmed to testify to the truth, the whole truth, and nothing but the truth; that I thereafter transcribed my said shorthand notes into typewriting and that the typewritten transcript is a complete, true and accurate record of testimony provided by the witness at said time. |
| 7 | I further certify (1) that I am not a relative or employee of an attorney or counsel of any of the parties, nor a relative or employee of any attorney, or counsel involved in said action, nor a person financially interested in the action, and (2) that pursuant to Rule 30(e), transcript review by the witness was requested. |
| 8 | IN WITNESS WHEREOF, I have hereunto set my hand in my office in the County of Clark, State of Nevada, this 8th day of July, 2016. |
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| 20 | _____ MARY COX DANIEL, CCR 710, FAPR, RDR, CRR |
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| 1:10 (2) | 236 (1) | 5 (21) | actual (14) |
| 1:44 (1) | 237 (2) | 59 (6) | add (2) |
| 1:50 (1) | 24 (1) | | added (4) |
| 10 (2) | 25th (9) | | adding (1) |
| 10:06 (1) | 26 (1) | | addition (1) |
| 10:08 (1) | 26th (1) | | additional (3) |
| 10th (1) | 28 (17) | | additionally (1) |
| 11 (3) | 29 (8) | | address (1) |
| 11:00 (1) | 290 (1) | | addressed (4) |
| 11:30 (1) | 299 (1) | | addressing (1) |
| 11th (3) | | | admin (1) |
| 11-year-old (1) | <3> | | administration (1) |
| 12 (3) | 3 (3) | | Administrative (21) |
| 12:15 (1) | 30 (41) | | Administrator (4) |
| 12:30 (1) | 300 (1) | | adopted (2) |
| 12th (9) | 308 (1) | | adult (28) |
| 13 (1) | 30th (3) | | adults (1) |
| 13th (1) | 31 (8) | | advice (4) |
| 14 (2) | 319 (1) | | advise (2) |
| 16 (2) | 31st (2) | | advised (7) |
| 17510A (1) | 32 (7) | | advising (2) |
| 19 (4) | 323 (2) | | advisor (1) |
| 1911 (1) | 33 (4) | | advisors (1) |
| 19th (3) | 332 (1) | | affirmative (5) |
| 1st (12) | 34 (4) | | affirmed (1) |
| | 349 (1) | | affix (1) |
| <2> | 35 (4) | | afternoon (3) |
| 2 (4) | 356 (1) | | agency (1) |
| 2:15-CV-00388-JAD | 36 (3) | | Agenda (1) |
| -PAL (1) | 37 (6) | | ago (6) |
| 2:31 (1) | 38 (6) | | agree (18) |
| 2000 (2) | 39 (4) | | agreed (3) |
| 2001 (6) | 390 (1) | | agreeing (2) |
| 2008 (3) | 394 (1) | | agreement (1) |
| 2011 (47) | 3960 (1) | | ahead (7) |
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| 2015 (1) | | | allegedly (1) |
| 2016 (8) | <4> | | |
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| Alt (1) | asked (36) | base (2) | calls (3) |
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| anatomy (15) | assigned (8) | bathrooms, (1) | Carlos (2) |
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| apart (2) | asterisked (1) | biggest (3) | CCSD001059-1062 (1) |
| apparently (7) | attach (1) | bill (2) | CCSD001066-1067 (1) |
| appeal (1) | attached (7) | bills (3) | CCSD001074-1079 (1) |
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| appreciate (1) | Attorney (6) | book (5) | |
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| clearly (2) | confirming (1) | current (2) | designated (3) |
| close (2) | confirms (2) | currently (1) | designation (1) |
| closed (5) | conformity (2) | curriculum (1) | DESIGNEE (24) |
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| comes (4) | consider (6) | DANIELLE (1) | details (3) |
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| commencing (1) | considered (5) | date (21) | determine (1) |
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| directly (2) | earlier (6) | Eric (1) | familiarize (1) |
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| discussions (1) | e-mailed (3) | example (2) | file (1) |
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| dismissal (1) | e-mails (5) | exceed (1) | filings (1) |
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| DISTRICT (213) | employers (6) | existence (3) | first (44) |
| District's (76) | Employment (10) | existing (2) | Fitzgerald (5) |
| diversity (1) | enables (1) | expectation (1) | five (2) |
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| do, (1) | enclosed (1) | experience (1) | follow (3) |
| Doctor (1) | ended (5) | experiences (2) | followed (1) |
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| forced (2) | Government (1) | i.e (4) | in-house (2) |
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| formal (2) | Green (2) | identifications (1) | initiated (7) |
| forms (2) | Greenberg (149) | identified (12) | initiating (1) |
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